



California Regulatory Notice Register

REGISTER 2007, NO. 46-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

NOVEMBER 16, 2007

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (USPS 002–931), (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Thomson West and is offered by subscription for \$202.00 (annual price). To order or make changes to current subscriptions, please call (800) 888-3600. “Periodicals Postage Paid in Saint Paul, MN.” **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Thomson–West/Barclays, P.O. Box 2006, San Francisco, CA 94126. The Register can also be accessed at <http://www.oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson West.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

AMENDMENT

MULTI-COUNTY: Los Gatos-Saratoga Union
High School District

A written comment period has been established commencing on **November 16th, 2007**, and closing on **December 31st, 2007**. Written comments should be directed to the Fair Political Practices Commission, Attention **Terrance Rodgers**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **December 31st, 2007**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to **CONSULTANT**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **CONSULTANT**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND THE FOLLOWING REGULATION SECTIONS, ALONG WITH AN ASSOCIATED FORM, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

THE FOLLOWING REGULATION SECTIONS ARE AMENDED: 1859.2, 1859.61, 1859.81, 1859.82 AND 1859.83

THE FOLLOWING FORM IS AMENDED

Application for Funding, Form SAB 50-04, (Revised 11/07), referenced in Regulation Section 1859.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation sections, along with an associated form, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend and adopt the above-referenced regulation sections under the authority provided by Sections 17070.35, 17075.15, 17078.72 and 17592.73 of the Education Code. The proposals interpret and make specific reference Sections 17070.51,

17071.25, 17072.15, 17072.20, 17072.32, 17073.15, 17074.10, 17074.15, 17074.16, 17074.32, 17074.56, 17075.10, 17075.15, 17077.40, 17077.42 and 17077.45 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

The State Allocation Board (SAB), at its September 26, 2007 meeting, adopted proposed regulatory amendments to implement seismic mitigation funding under the School Facility Program (SFP) Regulations to repair, reconstruct, or replace the "Most Vulnerable Category 2" school facilities with potential for catastrophic collapse, as authorized by Assembly Bill (AB) 127, Chapter 35, Statutes of 2006 (Perata/Nunez). There is up to \$199.5 million available for seismic mitigation funding which was approved by the voters in Proposition 1D at the November 7, 2006 General Election.

The proposed amendments modify the SFP facility hardship regulations by setting forth four criteria established by the Division of the State Architect (DSA) to be the "Most Vulnerable Category 2 Buildings" in order to qualify for seismic mitigation funding. The four criteria are:

1. The building is located where the short period spectral acceleration is 1.70 g or more based on the 2002 United States Geological Survey National Seismic Hazard Maps adjusted for site class factors. (g = force of gravity.)
2. The building is designed for occupancy by students and staff.
3. The building type is either:
 - C1 . . . Concrete Moment Frame,
 - PC1A . . Precast/Tilt-up Concrete Shear Wall with Flexible Roof,
 - PC2 . . . Precast Concrete Frame and Roofs with Concrete Shear Walls, or
 - URM . . . Unreinforced Masonry Bearing Wall Buildings.
4. A structural report is provided by a structural engineer that demonstrates the lateral force-resisting system of the building does not meet collapse prevention performance objectives

and the specific deficiencies and reasoning for concluding that the building has a potential for catastrophic collapse.

The proposed regulations allow the funding for qualifying projects to cover all seismic mitigation related costs, including ancillary costs. School districts will be eligible for reimbursement for costs to obtain a structural report only for approvable and funded seismic mitigation projects.

The proposed regulatory amendments are as follows:

Existing Regulation Section 1859.2 defines words and terms used exclusively for these regulations. The proposed amendments add the definition of “Most Vulnerable Category 2 Buildings” (see bulleted criteria above) which do not meet collapse prevention performance objectives, and have a potential for catastrophic collapse.

Existing Regulation Section 1859.61 sets forth specific factors which impact a district’s capacity to house pupils and therefore require adjustments to the modernization baseline eligibility. The proposed amendment adds an additional specific factor requiring that a district’s modernization baseline be adjusted as a result of classrooms demolished and replaced pursuant to Regulation Section 1859.82.

Existing Regulation Section 1859.81 sets forth eligibility criteria for SFP financial hardship status in order for the State to fund all or a portion of a school district’s required share of project costs. Specific types of district revenues to its capital facility accounts are set forth which will not thereafter be deemed available as matching contribution on subsequent financial hardship reviews. The proposed amendments add the following specific type of revenue which will not thereafter be deemed available as matching contribution on subsequent financial hardship reviews: funding to pay for obtaining a structural report for an approvable and funded seismic mitigation project. In addition, the proposed amendments clarify that from the funds deemed available for a school district’s matching contribution, the district may retain \$19,776 per classroom (adjusted annually as prescribed in Section 1859.71) in each reporting period for the cost to provide interim housing for unhoused pupils displaced by SAB-approved seismic mitigation projects. Finally, a non-substantive change is made to correct the placement of subsection (d) in the narrative text, so that it follows subsection (c)(5)(B).

Existing Regulation Section 1859.82 establishes the criteria a district must meet to be eligible for facility hardship funding to replace or construct new classrooms and related facilities. The proposed amendments add “seismic mitigation of the Most Vulnerable Category 2 Buildings as verified by the DSA” to the list of health and safety risks to pupils, allow funding for

“seismic mitigation related and ancillary costs” up to \$199.5 million, require that construction contracts be executed on or after May 20, 2006 (the effective date of AB 127) to be eligible projects, and limit seismic project funding to the minimum work necessary to obtain DSA approval.

In addition, the proposed amendments to Section 1859.82 allow the SAB to approve up to a 50 percent funding grant for seismic rehabilitation projects if the cost to remain in the classroom or related facilities is less than half the current cost to replace the classroom or related facilities, if approved by the OPSC and SAB for seismic rehabilitation. Finally, the proposed amendments require that requests for replacement facilities that included seismic deficiencies, be supported by a report from a licensed design professional identifying the minimum work necessary to obtain DSA approval. For seismic deficiencies of the Most Vulnerable Category 2 Buildings, the proposed amendments require DSA review of the report and the cost estimate for the minimum work necessary.

Existing Regulation Section 1859.83 sets forth school district eligibility criteria for excessive cost hardship grant funding as a result of specified unusual circumstances. The proposed amendment clarifies that for purposes of Section 1859.83(f) “Excessive cost due to accessibility and fire code requirements,” the verified hard construction costs include the fire code work.

Existing Form SAB 50–04, *Application for Funding*, is submitted to apply for State funding for new construction or modernization projects. The proposed amendments add specific instructions and data fields to accommodate the new seismic mitigation funding applications.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than December 31, 2007, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Robert Young, Regulation
Coordinator

Mailing Address: Office of Public School
Construction
1130 K Street, Suite 400
Sacramento, CA 95814

E-mail Address: robert.young@dgs.ca.gov

Fax No.: (916) 445–5526

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 445–0083. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 322–1043.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND REGULATION SECTIONS 1866.4.3 AND 1866.13, ALONG WITH FORM SAB 40-22, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO THE STATE SCHOOL DEFERRED MAINTENANCE PROGRAM

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend Regulation Sections 1866.4.3 and 1866.13, along with Form SAB 40-22, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A pub-

lic hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend and adopt the above-referenced regulation sections under the authority provided by Section 15503 of the Government Code. The proposals interpret and make specific reference Sections 17070.75, 17582, 17584, 17587 and 17591 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The State School Deferred Maintenance Program (DMP) provides State matching funds, on a dollar-for-dollar basis, to assist school districts with expenditures for major repair or replacement of existing school building components. The SAB adopted regulations to implement the DMP, which were approved by the Office of Administrative Law and filed with the Secretary of State on January 13, 2003.

Regulation Section 1866.4.3 is being amended for greater consistency with the language of Education Code Section 17582 regarding the source of funds from which districts can deposit their matching share into the District Deferred Maintenance Fund. The current regulations indicate that the contribution must be from "any non-restricted fund," while the law reads that the district contribution into the Fund may be "from any source whatsoever, . . .". Therefore, the SAB amended that term in the DMP Regulations to "any source not otherwise prohibited by law or regulation."

A minor amendment to the DMP Regulations was approved by the SAB as a result of Assembly Bill 127, Chapter 35, Statutes of 2006 (Perata/Nunez) to address the circumstances when a DMP extreme hardship project is encompassed within the work of a Charter School Facilities Program (CSFP) Rehabilitation project. Language was added to DMP Regulation Section 1866.13 and the *Extreme Hardship Funding Application*, Form SAB 40-22, to avoid duplication of DMP extreme hardship project work in the CSFP Rehabilitation project.

The proposed regulatory amendments are as follows:

Existing Regulation Section 1866.4.3 requires school districts to deposit a matching share into their District

Deferred Maintenance Fund in order to receive the DMP "Basic Grant" amount as set forth in Section 1866.4.2. The district's deposit must be a cash contribution from "any non-restricted fund" or other specified sources. The proposed amendment deletes the term "any non-restricted fund" and substitutes the term "any source not otherwise prohibited by law or regulation" for improved clarity and consistency with Education Code Section 17582.

Existing Regulation Section 1866.13 requires that if a school district's application for a DMP extreme hardship grant involves proposed work also included in a SFP Modernization project which is pending funding, the district must reduce the work to be funded in the extreme hardship grant project from the SFP Modernization project for certain cost and eligibility determinations for the SFP Modernization project. The proposed amendments add CSFP Rehabilitation projects for the same district requirement to reduce the work to be funded in an extreme hardship grant project from the CSFP Rehabilitation project.

Existing Form SAB 40-22, *Extreme Hardship Funding Application*, is submitted to apply for DMP Extreme Hardship Grant funding for a "critical" project, meaning a project that must be completed within one year for health and safety reasons, or to prevent further damage to the facility. The proposed amendments add specific instructions, data fields, and certification language to require that work to be funded in a DMP extreme hardship grant project will be reduced from an accompanying CSFP Rehabilitation project for certain cost and eligibility determinations for that CSFP Rehabilitation project. In addition, reference to Form SAB 40-1 (no longer current) is corrected to the form that superseded it — Form SAB 40-20 (Rev. 01/05).

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following deter-

minations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding under the State School Deferred Maintenance Program.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than December 31, 2007, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Robert Young, Regulation
Coordinator

Mailing Address: Office of Public School
Construction
1130 K Street, Suite 400
Sacramento, CA 95814

E-mail Address: robert.young@dgs.ca.gov

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 445-0083. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 322-1043.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

ARTICLE 22 Citrus

(Notice published November 16, 2007)

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the California Department of Food and Agriculture (Department) proposes to amend, Title 3, Article 22 Section 1430.43 of the California Code of Regulations (CCR). The Department also proposes to add Section 1430.142.

The Department has not scheduled a public hearing on this proposed action. However, the Department will

hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on December 31, 2007. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Rick S. Jensen, Chief
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Notice is hereby given that the Department of Food and Agriculture, pursuant to the authority vested by Sections 407, 42681, 42682, and 42684, Food and Agricultural Code, and to implement, interpret, or make specific Section 42941, Food and Agricultural Code, proposes to amend regulations in Title 3 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Sections 407, 42681, 42682, and 42684 of the Food and Agriculture Code allow the Department to establish, modify, or rescind regulations to carry out the provisions of Citrus Program legislature. Such regulations are to secure uniformity of enforcement and maintenance of minimum standards.

Sections 42682 and 42684 further authorize the Department to consider regulatory changes submitted by parties with substantial interest in the industry. California Citrus Mutual petitioned the regulatory changes explained as follows:

Section 1430.43 gives enforcement officers the ability to take a representative sample of oranges, which may have been damaged by freezing conditions. This damage may not show up for several days, which is why the officer must "hold" the oranges for later inspection. The regulation currently allows all citrus other than oranges that may be damaged by freeze to be shipped without a sample taken for later inspection. The specific purpose of amending Section 1430.43 is to allow en-

forcing officers to take representative samples of all citrus.

Proposed Section 1430.142 will give the Secretary the ability to lower or raise the assessment rate within the legislative authority provided by the Food and Agricultural Code Section 48002. The necessity of this proposal is to provide the industry with the flexibility to quickly replenish their reserve fund used solely for inspections during freeze years. If there were to be a freeze in consecutive years, industry would not have the ability to quickly raise assessments to pay for the necessary inspections. Current changes to the assessment rate require a lengthy legislative amendment. By creating this regulation, industry may efficiently regulate and maintain a level reserve.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.
Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action:

Adoption of these regulations will not:

1. Create or eliminate jobs within California;
2. Create new businesses or eliminate existing businesses within California; or
3. Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

EFFECT ON SMALL BUSINESS

The Department has initially determined that the proposed changes to the regulations would result in no added costs to small businesses affected by these proposed changes. The proposed changes allow the assessments to be commensurate with program costs, not to exceed the maximum assessment already set by Food and Agri-

culture Code, Section 48002(a). The proposed changes create a level playing field for all citrus freeze inspections.

CONSIDERATION OF ALTERNATIVES

The Department has initially determined that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which these regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Rick S. Jensen, Chief
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 445-2180; Fax: (916) 445-2427

The backup contact person for these inquiries is:

Susan Shelton, Staff Services Analyst
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 445-2180; Fax: (916) 445-2427

Please direct requests for copies of the proposed text of the regulations, the initial statement of reason, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Ms. Shelton at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at 560 J Street, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the petition received from California Citrus Mutual. Copies may be obtained by contacting Susan Shelton at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Susan Shelton at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Shelton at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: www.cdfa.ca.gov/is/regulation.htm

TITLE 10. DEPARTMENT OF FINANCIAL INSTITUTIONS

TITLE 10. INVESTMENT [Notice published November 16, 2007]

NOTICE OF PROPOSED RULEMAKING

The Department of Financial Institutions ("Department") proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if any interested person or duly authorized representative submits a written request for a public hearing no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on December 31, 2007. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Jennifer L.W. Rumberger
Senior Counsel
Department of Financial Institutions
111 Pine Street, Suite 1100
San Francisco, CA 94111

AUTHORITY AND REFERENCE

Financial Code Section 215 authorizes the Department to adopt the proposed regulations, which would implement, interpret, or make specific Section 3359 of the Financial Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and makes specific the application requirements and approval process of acquisitions by a bank or trust company of its own securities.

Financial Code Section 3359(d)(3) permits a California state-chartered bank or trust company to acquire its own shares if the acquisition is approved in advance by the Commissioner. Financial Code Section 215 authorizes the Commissioner of the Department to issue regulations deemed necessary or advisable in executing the powers, duties, and responsibilities of the Department.

The Department proposes to adopt Sections 19900 and 19901 in Title 10 of the California Code of Regulations (CCR). The regulations proposed in this rulemaking would establish the application requirements to acquire a bank's or trust company's own securities and would specify the criteria considered in the approval process of such an application.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following determinations:

Mandate on local agencies and school districts: None.
Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Small Business Determination

The proposed regulations will not affect small business. The proposed regulations relate to applications by banks and trust companies to acquire their own shares. Government Code Section 11342.610 excludes financial institutions, including banks and trusts, from the definition of "small business."

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed rulemaking may be directed to:

Jennifer L.W. Rumberger
Senior Counsel
Department of Financial Institutions
111 Pine Street, Suite 1100
San Francisco, CA 94111
(415) 263-8513

AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Ms. Rumberger at the address or phone number listed above.

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Ms. Rumberger at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Rumberger at the above address.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at www.dfi.ca.gov.

**TITLE 15. CRIME PREVENTION AND
CORRECTIONS**

NOTICE OF PROPOSED RULEMAKING

**TITLE 15. CRIME PREVENTION AND
CORRECTIONS
DIVISION 2. BOARD OF PAROLE HEARINGS
(formerly known as Board of Prison Terms)
CHAPTER 5. PAROLE SUPERVISION
ARTICLE 3. DISCHARGE**

**ADOPTION OF SECTION 2536.1 — REVIEW
OF PAROLE DISCHARGE
RECOMMENDATION AFTER 180 DAYS OF
PAROLE SUPERVISION**

RN 07-05

NOTICE IS HEREBY GIVEN that the Board of Parole Hearings (board) proposes to adopt California Code of Regulations (CCR), title 15, section 2536.1 concerning review of parole discharge recommendation after 180 days of parole supervision.

AUTHORITY AND REFERENCE

Government Code section 12838.4 and Penal Code sections 3052 and 5076.2 authorize the board to adopt the proposed regulation. The proposed regulation implements, interprets and makes specific Penal Code section 3000(b)(1).

PUBLIC HEARING

The board has not scheduled a public hearing on this proposed regulatory action. However, the board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

The purpose of a public hearing is to receive oral comments about the proposed regulation. It is not a forum to debate the proposed regulation. No decision regarding the permanent adoption of these regulations will be rendered at this hearing. Written or facsimile comments submitted during the prescribed comment period have the same significance and influence as oral comments presented at a public hearing. The board will not be present at the public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulation to the board. **THE WRITTEN COMMENT PERIOD ON THIS PROPOSED REGULATORY ACTION WILL COMMENCE ON NOVEMBER 16, 2007, AND WILL CLOSE AT**

5:00 p.m. ON DECEMBER 31, 2007. In order for the comments to be considered by the board, they must be submitted in writing (by mail, fax or e-mail) to the board's Contact Person identified in this Notice no later than the close of the comment period.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Penal Code section 3000(b)(1) provides that the board may waive parole and discharge the inmate from the custody of the California Department of Corrections and Rehabilitation (CDCR) earlier than the statutory timelines set forth in that section.

The CDCR's Division of Adult Parole Operations (DAPO) is adopting CCR, title 15, section 3075.4. This new section requires DAPO to begin an evaluation of parolees during the fifth month of parole. DAPO will identify parolees who are non-violent and non-serious offenders, as those terms are defined in Penal Code sections 667.5(c) and 1192.7 and who are assessed to be a low risk to re-offend. If DAPO identifies a non-serious, non-violent parolee who is a low risk to re-offend, the case will be forwarded to the board with a recommendation to discharge the parolee at 180 days.

This rulemaking action provides that the board shall consider the DAPO recommendation and may consider other criteria in exercising its discretion in light of the public safety when deciding whether to discharge parolees after 180 days of parole supervision since the parolee's release from incarceration. This regulation specifies the procedure and criteria for review of DAPO recommendations for discharge from parole after 180 days of parole supervision since the parolee's release from incarceration.

DISCLOSURES REGARDING THE PROPOSED ACTION

Local Mandates: The board has determined that the proposed action imposes no mandate upon local agencies or school districts.

Fiscal Impact Statement: The board has made the following initial determinations:

- o Cost to any local agency or school district which must be reimbursed in accordance with Government Code §§ 17500 through 17630: **Unknown**

Board of Parole Hearings: Anticipated costs are based on additional or more frequent Deputy Commissioner or Associate Deputy Commissioner discharge reviews. Exact cost amount is unknown at this time. This

information will be supplemented as it becomes available.

Division of Adult Parole Operations, Department of Corrections and Rehabilitation: Anticipated costs are based on parole agent file review, reporting, training, and overtime. Exact cost amount is unknown at this time. This information will be supplemented as it becomes available.

- o Cost or savings to any state agency: **None**
- o Other non-discretionary cost or savings imposed on local agencies: **None**
- o Cost or savings in federal funding to the state: **None**

Significant Statewide Adverse Economic Impact on Business: The board has determined that there is no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses: The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Assessment of Effects on Job and/or Business Creation, Elimination or Expansion: The board has determined that adoption of this regulation will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing business within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on Housing Costs: The board has made an initial determination that the proposed action will have no significant effect on housing costs.

Small Business Determination: The board has determined that the proposed regulation does not have a significant adverse economic impact on small business because small businesses are not affected by the internal management of State prisons.

CONSIDERATION OF ALTERNATIVES

The board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested parties are accordingly invited to present statements or arguments with respect to any alternatives to the proposed changes during the public comment period.

CONTACT PERSON

Please direct requests for copies of the Initial Statement of Reasons, the proposed amended text of the regulation, or other information upon which the rulemaking is based to:

Devaney Sullivan, Regulations Coordinator
Board of Parole Hearings
PO Box 4036
Sacramento, CA 95812-4036
Telephone: (916) 322-6815
Facsimile: (916) 445-4086
E-mail: Devaney.Sullivan@cdcr.ca.gov

In any such inquiries, please identify the action by using the board's regulation control number RN 07-05.

Note: In the event the contact person is unavailable, inquiries should be directed to the following backup contact person at the same address as noted above: Elizabeth Geiger at (916) 324-6434 or Elizabeth.Geiger@cdcr.ca.gov.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The board will make the rulemaking file available to the public throughout the rulemaking process at its offices located at 1515 K Street, Suite 600, Sacramento, California. As of the date this Notice is published in the Office of Administrative Law's Notice Register, the rulemaking file consists of this Notice, Form 400 (Notice of Submission of Regulations), the proposed text of the regulation, Initial Statement of Reasons and Form 399 (Fiscal Impact Statement). Copies of these documents may be obtained by contacting the board's Contact Person at the address or phone number listed above or by visiting the board's Web site at:

http://www.cdcr.ca.gov/Divisions_Boards/BOPH/reg_revisions.html

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the board may adopt the proposed regulations substantially as described in this Notice. If the board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the board adopts the regulations as revised. Please send requests for copies of any modified regulation text to the attention of the Contact Person identified in this Notice or by visiting the board's Web site at http://www.cdcr.ca.gov/Divisions_Boards/BOPH/reg_revisions.html. The board

will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained from the board's Regulation Coordinator or by visiting the board's Web site at:

http://www.cdcr.ca.gov/Divisions_Boards/BOPH/reg_revisions.html

TITLE 16. BOARD OF PHARMACY

NOTICE IS HEREBY GIVEN that the Board of Pharmacy is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board of Pharmacy at its office not later than 5:00 p.m. on December 31, 2007.

The board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the board. The request must be received in the board office not later than 5 p.m. on December 14, 2007.

The Board of Pharmacy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 4005 of the Business and Professions Code, and to implement, interpret or make specific sections 4051, 4052, 4059, 4076, 4081, 4127, and 4127.7 of the Business and Professions Code, the Board of Pharmacy is considering changes to Division 17 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 4005 generally authorizes the board to amend rules and regulations pertaining to the practice of pharmacy.

Current pharmacy regulations addressing compounding only govern the physical circumstances, procedures and recordkeeping requirements for general compounding and do not address quality, strength and purity.

The proposed regulations provide a balance of consumer protection with the need for pharmacies to compound medication for patients, either pursuant to a prescription or based upon the need for future furnishing. Records, labeling and quality assurance are needed for any product a pharmacy compounds, even if the pharmacy does it only rarely. The level of record keeping and quality assurance required as specified in these regulations does depend on the frequency and volume of medicine compounded. The pharmacy that rarely compounds medicine or does so to a limited extent may provide most of the record keeping on the prescription document itself. When larger volumes of medicine are compounded, the board expects more record keeping and higher quality assurance. This proposal distinguishes between the two levels.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact: The board determined that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states.

This determination is based on the absence of testimony provided in a number of public meetings.

Impact on Jobs/New Businesses: The Board of Pharmacy has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board of Pharmacy is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The proposal would necessitate a self-assessment by the DRC of the wholesaler premises every odd-numbered year or in the event of a change of location of the licensed premises or change in the DRC. This self-assessment form would be a tool to aid the DRC and the wholesaler in general in this regard.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board of Pharmacy has made an initial determination that the proposed regulatory action would not have a significant adverse economic impact directly affecting small business.

This determination is based on the absence of testimony provided in a number of public meetings.

CONSIDERATION OF ALTERNATIVES

The Board of Pharmacy must determine that no reasonable alternative which it considered either would be more effective than or as effective as and less burdensome on affected private persons than the proposal described.

Any interested person may present written statements relevant to the above determinations to the Board of Pharmacy at the above-mentioned address.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Pharmacy has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and the initial statement of reasons may be obtained upon request from the Board of Pharmacy at 1625 N. Market Blvd. N219, Sacramento, California 95834, or from the Board of Pharmacy Web site (www.pharmacy.ca.gov).

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Anne Sodergren
Address: 1625 N. Market Blvd. N219
Sacramento, CA 95834
Telephone No.: (916) 574-7913
Fax No.: (916) 574-8618
E-Mail Address: anne_sodergren@dca.ca.gov

The backup contact person is:

Name: Virginia Herold
Address: 1625 N. Market Blvd. N219
Sacramento, CA 95834
Telephone No.: (916) 574-7911
Fax No.: (916) 574-8618
E-Mail Address: virginia_herold@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.pharmacy.ca.gov.

TITLE 16. BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

NOTICE IS HEREBY GIVEN that the **Board of Vocational Nursing and Psychiatric Technicians** (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the **Engineers Board Hearing Room, 2535 Capitol Oaks Drive (Third Floor), Sacramento, CA 95833 at 10:00 a.m. on Wednesday, January 2, 2008**. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on Monday, December 31, 2007, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 2854 and 4504 of the Business and Professions (B&P) Code, and 11425.50(e) of the Government Code, and to implement, interpret or make spe-

cific sections 101.6, 108, 475, 480, 482, 490, 2875, 2876, 2877, 2878, 2878.1, 2878.5, 2878.6, 2878.7, 2878.8, 2878.9, 4520, 4521, 4521.1, 4521.2, 4521.6, 4523, and 4524 of said Code, the Board is considering changes to Division 25 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to B&P Code section 2854 (Vocational Nursing); and B&P Code section 4504 (Psychiatric Technicians), the Board may adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry out the provisions of these chapters.

1. Vocational Nursing Regulations

Rehabilitation Criteria — Amend Section 2522: Repeal Section 2522.5.

Existing law authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Vocational Nursing Law.

The proposed regulations would update the Board's criteria to evaluate the rehabilitation of a person when considering the denial, suspension or revocation of a license and ensure consistency with the Board's Disciplinary Guidelines. The proposed regulations consolidate section 2522.5 (VN) with section 2522 (VN).

Additionally, section 482 of the Code requires the Board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension or revocation of a license. Existing regulations relative to rehabilitation criteria are outdated and need to be amended. This proposal would update the Board's criteria for rehabilitation and provide consistency between the rehabilitation criteria and factors to be considered contained in the Board's Disciplinary Guidelines.

Disciplinary Guidelines — Amend Section 2524.

Existing law authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Vocational Nursing Law.

Government Code Section 11425.50(e) requires that a penalty in an administrative disciplinary action may not be based on a guideline, criterion, bulletin, manual, instruction, order, standard of general application or other rule subject to Chapter 3.5 (commencing with Section 11340) unless it has been adopted as a regulation pursuant to Chapter 3.5 (commencing with Section 11340). This proposal would amend the Board's "Disciplinary Guidelines" (6/19/2007) incorporated by reference into Section 2524.

The Board last revised its disciplinary guidelines on January 1, 2000. Since that time, there have been

changes in Board policy, the work environment, and healthcare practice that have resulted in the guidelines being outdated. To remain current, the guidelines must be amended.

The proposed revisions will update, clarify, and provide consistency for the Board's disciplinary orders, conditions of probation, and rehabilitation criteria and include general clean up.

2. **Psychiatric Technician Regulations**

Rehabilitation Criteria — Amend Section 2579: Repeal 2579.1.

Existing law authorizes the Board of Vocational Nursing and Psychiatric Technicians to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Psychiatric Technicians Law.

The proposed regulations would update the Board's criteria to evaluate the rehabilitation of a person when considering the denial, suspension or revocation of a license and ensure consistency with the Board's Disciplinary Guidelines. The proposed regulations consolidate section 2579.1 (PT) with section 2579 (PT).

Additionally, section 482 of the Code requires the Board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension or revocation of a license. Existing regulations relative to rehabilitation criteria are outdated and need to be amended. This proposal would update the Board's criteria for rehabilitation and provide consistency between the rehabilitation criteria and factors to be considered contained in the Board's Disciplinary Guidelines.

Disciplinary Guidelines — Amend Section 2579.10.

Existing law authorizes the Board of Vocational Nursing and Psychiatric Technicians to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Psychiatric Technicians Law.

Government Code Section 11425.50(e) requires that a penalty in an administrative disciplinary action may not be based on a guideline, criterion, bulletin, manual, instruction, order, standard of general application or other rule subject to Chapter 3.5 (commencing with Section 11340) unless it has been adopted as a regulation pursuant to Chapter 3.5 (commencing with Section 11340). This proposal would amend the Board's "Disciplinary Guidelines" (6/19/2007) incorporated by reference into Section 2524.

The Board last revised its disciplinary guidelines on January 1, 2000. Since that time, there have been changes in Board policy, the work environment, and healthcare practice that have resulted in the guidelines being outdated. To remain current, the guidelines must be amended.

The proposed revisions will update, clarify, and provide consistency for the Board's disciplinary orders, conditions of probation, and rehabilitation criteria and include general clean up.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The proposed amendments do not alter staffing or equipment needs in any small business.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS
AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 205, Sacramento, California 95833.

AVAILABILITY AND LOCATION OF
THE FINAL STATEMENT OF REASONS
AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Michele Hedding
Address: 2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
Telephone No.: (916) 263-7848
Fax No.: (916) 263-7859
E-Mail Address: michele_hedding@dca.ca.gov

The backup contact person is:

Name: Kerry Kuepper
Address: 2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
Telephone No.: (916) 263-7825
Fax No.: (916) 263-7859
E-Mail Address: kerry_kuepper@dca.ca.gov

Website Access — Materials regarding this proposal can be found at www.bvnpt.ca.gov.

TITLE 22. SOCIAL SECURITY

DIVISION 9. PREHOSPITAL EMERGENCY
MEDICAL SERVICES

CHAPTER 1.8: PUBLIC ACCESS
AUTOMATED EXTERNAL DEFIBRILLATION
[Notice published 11/16/2007]

NOTICE OF PROPOSED AMENDMENT OF
REGULATIONS

The Emergency Medical Services Authority (“EMSA”) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The EMSA will hold a public hearing starting at 1:00 p.m.–3:00 p.m. on January 4, 2008, at EMSA located at 1930 9th Street, Sacramento, California. The meeting room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the informative digest. The EMSA requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the EMSA. Comments may also be submitted by facsimile (FAX) at (916) 324-2875 or by e-mail to laura.little@emsa.ca.gov. The written comment period closes at **5:00 p.m.** on **January 4, 2008**. The EMSA will consider only comments received at the EMSA offices by that time. Submit comments to:

Laura Little, BLS Coordinator
EMS Authority
1930 9th Street
Sacramento, CA 95811

AUTHORITY AND REFERENCE

Health and Safety Code Section 1797.190, authorizes the EMSA to adopt these proposed regulations. The

proposed regulations implement, interpret, and make specific Sections 1797.196 and 104113 of the Health and Safety Code and Sections 1714.2 and 1714.21 of the Civil Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and makes specific the CPR and Automated External Defibrillation (AED) requirements for lay rescuers in California.

The proposed revision to these Sections is to add Section 104113 of the Health and Safety Code to the Reference Sections of these regulations. AB 1507 (Pavley), Chapter 431, Statutes of 2005 added Section 104113 to the Health and Safety Code. The purpose of AB 1507 was to mandate Automated External Defibrillation (AED) devices in and to provide immunity, to health clubs and health studios, from civil liability to trained AED users. The Layperson AED Regulations have not been amended since 2001.

The regulations proposed in this rulemaking action would clarify the role of the medical directors involved with AED programs, what their responsibilities entail, they clarify which specific facilities are mandated to have AEDs on site, and they lay out the steps that the AED vendors need to take to make sure the AED purchaser is informed of regulatory requirements for AED programs.

DISCLOSURES REGARDING THE PROPOSED ACTION

The EMSA has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal finding to the state: None.

The EMS Authority has made an initial determination and declares that the proposed amendments to the AED regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The EMS Authority has relied on discussions with representatives of groups that are based in State Government, County Government, and AED manufacturers throughout California and the United States to come to this conclusion.

Cost impacts on a representative private person or businesses: Implementing an Automated External Defibrillator (AED) program is voluntary with the exception of Health Clubs and Health Studios. The estimated costs will vary for the small business, the typical business, and the individual user depending on a number of factors. The AEDs range in costs between \$1195.00 and \$3158.00. Accessories vary by manufacturer and they are optional. If a small business, a typical business, or an individual user wanted to purchase all the available accessories (check tags, replacement electrode pads, batteries, and AED data recovery units) they would be spending an estimated cost of \$914.95 every two (2) to five (5) years for patches and batteries. Patches need to be replaced every two (2) to five (5) years or after each use. Batteries need to be replaced every five (5) years.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; and
- (3) affect the expansion of businesses currently doing business in California.

Significant effect on housing costs: None.

Small Business Determination

The EMSA has determined that the proposed regulations affect small businesses.

CONSIDERATION OF ALTERNATIVES

The EMSA invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Laura Little, BLS Coordinator
EMS Authority
1930 9th Street
Sacramento, CA 95811
(916) 322-4336

The backup person for these inquiries is:

Sean Trask, EMS Personnel Manager
EMS Authority
1930 9th Street
Sacramento, CA 95811
(916) 322-4336

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if

any, or other information upon which the rulemaking is based to Ms. Little at the above address.

AVAILABILITY OF STATEMENT OF REASONS,
TEXT OF PROPOSED REGULATIONS, AND
RULEMAKING FILE

The EMSA will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Laura Little at the address or phone number listed above.

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the EMSA may adopt the proposed regulations substantially as described in this notice. If the EMSA makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the EMSA adopts the regulation as revised. Please send requests for copies of the modified regulations to the attention of Laura Little at the address indicated on the previous page. The EMSA will accept written comments on the modified regulations for 15 days after the date on which they were made available.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Little at the address listed on the previous page.

AVAILABILITY OF DOCUMENTS
ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at www.emsa.ca.gov.

**TITLE 24. BUILDING STANDARDS
COMMISSION**

NOTICE OF PROPOSED ACTION

**REVISIONS TO THE CALIFORNIA BUILDING
ENERGY EFFICIENCY STANDARDS
CALIFORNIA CODE OF REGULATIONS,
TITLE 24, PART 1 and PART 6
(CALIFORNIA ENERGY CODE)**

**2008 BUILDING ENERGY EFFICIENCY
STANDARDS
California Energy Commission
DOCKET NO. 07-BSTD-1
NOVEMBER 16, 2007**

Notice is hereby given that the California Energy Commission (Energy Commission) proposes to adopt changes to the Building Energy Efficiency Standards contained in the California Code of Regulations (CCR), Title 24, Part 6 (also known as the California Energy Code) and associated administrative regulations in Part 1. The proposed amended standards are called the "2008 Building Energy Efficiency Standards" and will go into effect in 2009.

The Energy Commission has prepared this Notice of Proposed Action (NOPA) and an Initial Statement of Reasons (ISOR) regarding the need for the proposed revisions. The Energy Commission has also published the Express Terms (45-Day Language) of the proposed amendment language. These documents can be obtained from the contact persons designated below or from the Energy Commission website at: www.energy.ca.gov/2008_standards/rulemaking

PUBLIC COMMENT PERIOD AND HEARINGS

The Energy Commission's Energy Efficiency Committee will hold a public hearing to receive public comments on the proposed action. At this hearing, any person may present statements or arguments relevant to the proposed regulatory action summarized below. The proposed language (45 Day Language Express Terms) is posted on the Energy Commission's website at:

www.energy.ca.gov/2008_standards/rulemaking and is also available from the Energy Commission's Residential Buildings and Appliance Standards Office (contact persons are listed later in this NOPA). The Committee Hearing will be held as follows:

Monday, December 17, 2007

10 a.m.

CALIFORNIA ENERGY COMMISSION

Hearing Room A

1516 Ninth Street

Sacramento, California

(Wheelchair Accessible)

Audio for the December 17, 2007 Energy Efficiency Committee meeting will be broadcast over the Internet. For details, please go to:

www.energy.ca.gov/webcast.

If you have a disability and require assistance to participate in these hearings, please contact Lou Quiroz at (916) 654-5146 at least 5 days in advance.

The Energy Efficiency Committee may hold another hearing on Tuesday, December 18, 2007 if necessary. Written comments will be accepted regarding the proposed changes until the adoption date listed below.

The hearing before the full Energy Commission for final adoption of the 45 Day Language Express Terms will be held on the date below unless the Energy Commission decides to make substantive changes to the Express Terms through 15 Day Language, in which case the public hearing will be continued to a later noticed date.

PROPOSED ADOPTION DATE — FULL ENERGY COMMISSION HEARING

Wednesday, January 30, 2008

10 a.m.

CALIFORNIA ENERGY COMMISSION

Hearing Room A

1516 Ninth Street

Sacramento, California

(Wheelchair Accessible)

Audio for the January 30, 2008 Energy Efficiency Committee meeting will be broadcast over the Internet. For details, please go to:

www.energy.ca.gov/webcast.

If you have a disability and require assistance to participate in these hearings, please contact Lou Quiroz at (916) 654-5146 at least 5 days in advance.

If the Energy Commission decides to propose 15 Day Language modifications to the Express Terms, a separate notice of the adoption hearing for the 15 Day Language will be provided.

The public comment period for this NOPA will be from November 16, 2007 through January 30, 2008. Any interested person may submit written comments on the proposed amendments. Regarding the Energy Efficiency Committee, and Adoption Hearings, the Energy Commission appreciates receiving written comments at the earliest possible date: for the December 17, 2007 hearing, please provide written comments by Decem-

ber 14, 2007; for the January 30, 2008 Adoption Hearing, please provide written comments by January 29, 2008. However, written comments will still be accepted at the adoption hearing. In addition, written comments will be considered if they are received by 10:00 a.m. on January 30, 2008. Written comments shall be emailed to Docket@energy.state.ca.us or mailed or delivered to the following address (emailing is preferred):

CALIFORNIA ENERGY COMMISSION

Attention: Docket No. 08-BSTD-1

Dockets Office

1516 Ninth Street, MS-4

Sacramento, CA 95814

All written comments must indicate "Docket No. 08-BSTD-1." When comments are emailed on behalf of an organization, the comments should be a scanned copy of the original on the organization's letterhead and include a signature of an authorized representative.

Comments may also be filed electronically by emailing cgekas@energy.state.ca.us or FAXing them to 916/654-4304.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Interested persons should be aware that any of the provisions of the amendments under consideration by the Energy Commission could be substantively changed as a result of public comment, staff recommendations, or conclusions of the Energy Commission's Energy Efficiency Committee. Also, additional language not indicated in the Express Terms could be added if it is within the scope of the rulemaking proceeding. If the Energy Commission makes substantive changes to the 45 Day Language Express Terms, it will make the full text of the modified amendments available to the public at least 15 days before adoption, as required by Government Code 11346.8.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications

AUTHORITY AND REFERENCE

The California Energy Commission proposes to adopt these building standards under the authority granted by Public Resources Code Sections 25213, 25402, 25402.1, 25402.4, 25402.5, 25402.8 and 25910.

INFORMATIVE DIGEST

Summary of Existing Laws

Public Resources Code Sections 25402 and 25402.1 were enacted in 1975 as part of the enabling legislation

establishing the Energy Commission and its basic mandates. These sections require the Energy Commission to adopt, implement, and periodically update energy efficiency standards for both residential and nonresidential buildings. Enacted at that same time, Section 25910 directed the Energy Commission to adopt standards for the minimum amount of additional insulation installed [as an alteration] in existing buildings. Senate Bill (SB) 639 (Statutes of 1993) added Section 25402.5 which expressly directed the Energy Commission to consider both new and replacement [as an alteration to an existing building], and both interior and exterior, lighting devices as lighting which is subject to Section 25402. SB 639 also made the express finding that the mandate to consider exterior lighting and replacement lighting is declarative of existing law, clarifying that the Energy Commission's authority related to exterior lighting and to alterations to existing buildings was included in the Legislature's original intent in enacting Section 25402. SB 5X (Statutes of 2001) added subsection (c) to Section 25402.5 to clarify and expand the Energy Commission's authority to adopt standards for outdoor lighting (defined as all electrical lighting not subject to the Energy Commission's current standards).

Assembly Bill 32 (Nuñez, Chapter 488, Statutes of 2006), the Global Warming Solutions Act of 2006, mandated that California must reduce its greenhouse gas emissions to 2000 levels by 2010 and to 1990 levels by 2020. Increasing the stringency of the 2008 Building Energy Efficiency Standards has been identified as an early response to this climate change policy directive.

Senate Bill 1 (Murray, Chapter 132, Statutes of 2006) enacted Governor Schwarzenegger's Million Solar Roofs Initiative. The statute added sections to the Public Resource Code that require building projects applying for ratepayer-funded incentives for photovoltaic (PV) systems to meet minimum energy efficiency levels and recommended that PV system components and installations meet rating standards and specific performance requirements.

Summary of Existing Regulations

The Building Energy Efficiency Standards were first adopted in 1976 and have been updated periodically since then as directed by statute. In 1975 the Department of Housing and Community Development had adopted rudimentary energy conservation standards, under their State Housing Law authority, that were a precursor to the first generation of the Building Energy Efficiency Standards. However, the Warren-Alquist Act was passed that year with explicit direction to the Energy Commission to adopt and implement the Building Energy Efficiency Standards. The Energy Commission's statute created completely separate authority and specific direction to the Energy Commission regarding

what the Standards are to address, what criteria are to be met in developing standards, and what implementation tools, aids, and technical assistance are to be provided. The Standards contain energy efficiency and indoor air quality requirements for newly constructed buildings, additions to existing buildings, alterations to existing buildings and in the case of nonresidential buildings, repairs to existing buildings. The Standards have contained requirements for alterations to existing buildings for both nonresidential buildings and residential buildings since 1976.

The enabling statute stressed the importance of building design and construction flexibility by requiring the Energy Commission to establish performance standards, in the form of an "energy budget" in terms of the energy consumption per square foot of floor space, and to support the performance Standards with compliance software to do the necessary energy calculations. The Energy Commission establishes specific requirements for input, output, and calculational uniformity, enabling private firms to develop compliance software to be approved by the Energy Commission, as long as the software programs meet the specific requirements in the Alternative Calculation Method (ACM) Approval Manuals adopted by regulation in support of the Standards.

The Standards include a basic set of mandatory requirements that apply in all cases. In addition to the mandatory requirements, the performance standards establish energy budgets that vary by climate zone and building type. As an alternative to the performance standards, there are prescriptive requirements that are basically a "checklist" compliance approach that allows little flexibility (the Overall Envelope Approach, a prescriptive option, allows a limited tradeoff method for nonresidential building envelopes). Mandatory requirements that apply to all building types are in Sections 110 – 119. The requirements for nonresidential buildings, high-rise residential buildings and hotels/motels are in Sections 120 to 149 with additional mandatory requirements in Sections 120 to 132; performance standards requirements in Section 141 (supported by the detailed requirements in the Nonresidential ACM Manual); prescriptive requirements in Sections 142 to 146; and requirements for additions, alterations, and repairs to existing buildings in Section 149. The requirements for low-rise residential buildings are in Sections 150 to 152 with additional mandatory requirements in Section 150; performance standards requirements in Sections 151(b) to 151(e) (supported by the detailed requirements in the Residential ACM Manual); prescriptive requirements in Section 151(f); and requirements for additions and alterations to exist-

ing buildings in Section 152. The administrative regulations for the Standards are in Part 1, Chapter 10.

Summary of Effect

The 2008 Standards focus on several key areas to improve the energy efficiency of new buildings and also include requirements that will enable demand reductions during critical peak periods. The most significant efficiency improvements to the residential Standards are proposed for windows and roof systems. A requirement for mechanical ventilation in new homes is also proposed. Efficiency improvements in insulation and lighting levels, as well as lighting and water heating controls, are proposed for the nonresidential Standards. The 2008 Standards also include expanded criteria for acceptance testing of mechanical and lighting systems.

Enabling new buildings to respond to electricity demand curtailments by reducing air conditioning loads at peak times is a new aspect of the 2008 Standards. Communication capabilities are proposed as requirements for all thermostats controlling unitary heating and air conditioning systems. These programmable, communicating thermostats (PCTs) are required to accept both a price and an emergency signal for demand response, and must respond by increasing the setpoint temperature for the cooling system. For nonresidential buildings with energy management systems (EMS), a new requirement is proposed to ensure that the EMS is capable of issuing a global setpoint adjustment. This will enable automatic demand response in new large commercial buildings.

As part of SB 1 implementation, the Energy Commission has established the New Solar Homes Partnership (NSHP) program for renewable energy incentives in the residential sector. In NSHP, new residential buildings must achieve energy efficiency levels substantially greater than the requirements of the Standards. The builder can choose to comply with either of two tiers of energy efficiency measures:

- 1) Tier I — 15 percent reduction in the residential building's combined space heating, cooling, and water heating energy compared to the current Standards;
- 2) Tier II — 35 percent reduction in the residential building's combined space heating, cooling, and water heating energy and 40 percent in the residential building's space cooling energy compared to the current Standards.

Compliance with these NSHP energy efficiency requirements require the use of a certified Title 24 Alternative Calculation Method software program and verification from a California certified Home Energy Rater. The 2008 Standards provide a separate compliance option for buildings that participate in the NSHP.

CHANGES TO THE ALTERNATIVE CALCULATION METHOD APPROVAL MANUALS

The Residential and Non-residential Alternative Calculation Method Approval (ACM) Manuals are adopted by regulation to support the Standards in Part 6. The ACM Manuals contain detailed requirements that developers of computer software must meet for the Energy Commission to approve their software for showing compliance with the Standards. They also contain detailed information regarding compliance options, including specific calculation algorithms that have been approved for assessing the compliance credit or penalty due to installation of the compliance option.

The ACMs include information from the appendices that detail building material characteristics data, weather data, and other information necessary for completing calculations for showing compliance with the Standards. The ACM Manuals will be extensively revised to improve their clarity and organization and incorporate new efficiency measures initially introduced through compliance options, and improve the data needed for Standards calculations. The ACMs will also be revised to include more accurate modeling assumptions for attics, slab perimeter losses and water heating systems.

Residential Alternative Calculation Methods Approval Manual

Approved compliance software will be required to produce a revised Certificate of Compliance form (CF-1R). In addition, updated procedures and values for implementing Time Dependent Valuation (TDV) will be incorporated. A number of modeling algorithm and assumptions changes will be made, including new modeling rules for attics, slab perimeter losses, and water heating distribution systems. The modeling and compliance procedures for air conditioner refrigerant charge and air flow will be revised to match recent research findings on the energy consequences of these measures and to update air flow diagnostic testing protocols.

New compliance options will be established for evaporative cooling, evaporatively cooled condensers, and distributed ice energy storage systems. New procedures will be required and new accuracy tests will be established for computer compliance software to match changes in the Standards, modeling algorithms, assumptions, and rules.

Nonresidential Alternative Calculation Methods Approval Manual

The Nonresidential ACM Manual will be substantially re-written and reorganized to improve clarity and accuracy. Procedures for implementing Time Dependent Valuation will be updated. All U-factors for building

envelope assemblies will be required to be determined using extensive look-up tables in Joint Appendix IV. U-factors for unique assemblies that diverge from the table values will be required to be approved by the Energy Commission. In addition, compliance rules which reference the prescriptive package requirements to generate the energy budget will be updated.

New compliance options will be established for distributed ice energy storage systems and thermal energy storage. New procedures will be required and new accuracy tests will be established for computer compliance software to match changes in the Standards, modeling algorithms, assumptions, and rules.

Section 2.3.6 of the Nonresidential ACM Manual has been amended to incorporate a more accurate method of calculating the heat flows through portions of the building envelope that are in direct contact with soil, such as slab floors on grade, basement walls and basement floors.

Reference Appendices

In 2005, the Energy Commission adopted the Joint Appendices which were used as a common reference for all Standards documents. For the 2008 Standards, this document has been reorganized into three sections under the general heading of Reference Appendices. The three sections are the Joint Appendices, Residential Appendices, and the Nonresidential Appendices. The 2005 Residential and Nonresidential ACM Manuals included many appendices that were not intended for software certification; these appendices have now been transferred to the new Reference Appendices.

COMPARABLE FEDERAL STATUTES OR REGULATIONS

There are no federal building energy efficiency standards applicable to nonfederal buildings. The California Building Energy Efficiency Standards do, however, reference federal energy efficiency standards for particular appliances.

POLICY STATEMENT OVERVIEW

In the last decade the State of California experienced energy crises resulting in rolling blackouts, sharply rising utility prices and an economic floundering of California's utilities and many industries that were heavily reliant on energy. Concern for maintaining a reliable supply of energy is still paramount, in ensuring California's citizens and businesses an affordable supply of energy that guarantees economic strength and health. In retrospect the changes made to the 2001 and 2005 building standards which were focused on demand reduction, contributed to California's success in

reducing the repetition of the circumstances that created these crises.

California continues to place a high priority on energy policy by continued efforts to update the Building Energy Efficiency Standards in the 2008 and subsequent update cycles. The key elements of legislative action, through Senate Bill 1, which defined a goal for California to implement, and Assembly Bill 32, as well as public concern, which defined the incentive to these aggressive goals for the building standards, are discussed below.

As a result of these two legislations a number of derivative actions took place including:

The California's Energy Action Plan is developed jointly by the California Public Utilities Commission and the California Energy Commission with active participation from other state agencies with energy-related responsibilities. The Energy Action Plan establishes energy efficiency as the resource of first choice for meeting California's energy needs (i.e., energy efficiency is at the "top of the loading order"). On September 21, 2005 the Energy Commissions adopted Energy Action Plan II. Among other directives, Energy Action Plan II directs the Energy Commission to adopt new building standards for implementation in 2008 that include new energy efficiency measures, cost effective demand response technologies (such as programmable communicating thermostats) and the integration of photovoltaic systems. The Energy Action Plan II can be viewed at www.energy.ca.gov/energy_action_plan/.

The Integrated Energy Policy Report is the Energy Commission's biennial report to the Legislature that assesses California's major energy trends and issues and makes policy recommendations to conserve resources, protect the environment, ensure reliable, secure and diverse energy supplies, enhance the state's economy, and protect public health and safety. In September the Energy Commission released the Committee draft 2005 Integrated Energy Policy Report (IEPR). The 2005 IEPR concludes that California could face severe shortages of electricity in the next few years as the state's demand intensifies, and the high demand for natural gas is likely to continue to cause high prices for natural gas. The 2005 IEPR places top priority on energy efficiency to combat both electricity and natural gas problems. The IEPR finds that Standards are the most cost effective means to achieve energy efficiency, and expects the Building Energy Efficiency Standards to continue to be upgraded over time to reduce electricity and peak demand and recognizes the role of the Standards in reducing energy related to meeting California's water needs and in reducing greenhouse gas emissions. The Committee Draft 2005 Integrated Energy Policy Report is available at www.energy.ca.gov/2005_energypolicy/documents/index.html#draftreports.

Governor Arnold Schwarzenegger joined the governors of Washington and Oregon to approve the West Coast Governors' Global Warming Initiative. The Initiative commits to a series of tri-state collaborative actions including adding aggressive energy efficiency measures into updates of state building codes, with a goal of achieving at least 15 percent additional savings by 2015 in each state. Information about the West Coast Governors' Global Warming Initiative can be found at www.climatechange.ca.gov/westcoast/.

Governor Schwarzenegger issued Executive Order S-20-04, the Green Building Initiative, which lays out a comprehensive set of actions for California to improve the energy efficiency of nonresidential buildings. The Energy Commission is directed to undertake all actions within its authority to increase the efficiency requirements in the Building Energy Efficiency Standards for nonresidential buildings by 20 percent by 2015. More information about the Green Building Initiative can be found at www.energy.ca.gov/greenbuilding.

Governor Schwarzenegger issued Executive Order S-3-05, the Climate Action Initiative, which establishes California as a world leader by setting greenhouse gas emissions reduction goals. The ambitious goals are to reduce California's greenhouse gas emissions to 2000 levels by 2010, 1990 levels by 2020, and to reduce 1990 levels by 80 percent by 2050. Increased requirements in the Building Energy Efficiency Standards are identified as an explicit strategy in a portfolio of actions that will be necessary to meet these goals. More information about the Climate Action Initiative can be found at www.climatechange.ca.gov/.

The Standards proceeding continues to pursue the major objectives of the Energy Commission, including the adaptation of the Standards to emphasize energy efficiency measures that save energy at peak periods and seasons, encouragement of improvements in the quality of installation of energy efficiency measures, and adoption of requirements based on the findings of recent publicly funded building science research. The proceeding also represents collaboration with the California utilities to coordinate upgraded building standards with publicly funded market incentive programs, regarding technologies that have been demonstrated through those programs to be appropriate for incorporation into Standards.

OTHER MATTERS PRESCRIBED BY
STATUTE APPLICABLE TO THE AGENCY
OR TO ANY SPECIFIC REGULATION OR
CLASS OF REGULATIONS

The foundation law governing adoption and implementation of the California Building Energy Efficiency

Standards (California Energy Code), Public Resources Code 25402 and 25402.1, provides specific direction to the Energy Commission, as the adoption authority, regarding the scope of the Standards, their required approaches, and the criteria for their adoption. The Standards must be adopted and periodically updated as determined appropriate by the Energy Commission.

The Standards must contain both prescriptive and performance standards. The Standards must be supported by energy calculation computer programs and other methods that are consistent with the programs used for developing the Standards. The Standards must be cost effective when taken in their entirety and when amortized over the economic life of the structure when compared with historic practice.

MANDATE ON LOCAL AGENCIES
OR SCHOOL DISTRICTS

The Energy Commission has determined that the proposed regulatory action **would not** impose a new mandate on local agencies. The statute obligates local building departments to serve as enforcement agencies for the Standards. The Standards contain energy efficiency requirements for schools. Enforcement of the Standards for public school buildings is required by Title 24, Part I administrative regulations of DSA. The Standards add requirements for schools that are the same as those applicable to all nonresidential buildings. The Standards also recognize the unique characteristics of relocatable public school buildings, and establish requirements and procedures to facilitate compliance and enforcement for relocatables. The Standards for schools are cost effective and will reduce the costs of building and operating school buildings over their useful life.

ESTIMATE OF COST OR SAVINGS Form 399

- A. Cost or Savings to any state agency: **[YES]** Buildings owned and occupied by State agencies are required to comply with the Standards as any other nonresidential building. State agencies will benefit from reduced energy bills that more than pay for the costs of the Standards.
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **[NO]** The Standards do not result in new mandates to local agencies. Buildings owned and occupied by local agencies are required to comply with the Standards as any other nonresidential building. Local agencies will benefit from reduced energy bills that more than pay for the costs of the Standards.

- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: [NO] School buildings are covered by the Standards and the Administrative regulations of the DSA require public school buildings to comply. Costs are not required to be reimbursed. Schools will benefit from reduced energy bills that more than pay for the costs of the Standards.
- D. Other nondiscretionary cost or savings imposed on local agencies: [NO].
- E. Cost or savings in federal funding to the state: [NO].

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The Energy Commission has made an initial determination that the adoption of these standards will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

The basis for the Energy Commission's finding is that the Standards requirements are cost effective, and therefore will have a beneficial economic impact on the owners and occupants of buildings built to comply with the Standards. Evidence for the cost effectiveness of the Standards requirements are contained in the "Documents Relied Upon" listed in the Initial Statement of Reasons and on the Energy Commission's website.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Energy Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

The Energy Commission has assessed whether or not and to what extent this proposal will affect the following:

- ☐ The creation or elimination of jobs within the State of California.
It is possible that new jobs may be created due to adoption of the Standards, including approval of new compliance options, and may result from reduced operating costs due to energy bill savings.
- ☐ The creation of new businesses or the elimination of existing businesses within the State of California.
It is possible that new businesses will be created to provide field verification and other contractor services and to supply energy efficiency products.
- ☐ The expansion of businesses currently doing business with the State of California.
It is likely that businesses currently doing business in California to provide compliance related services and products will be expanded.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

The Energy Commission has made an initial determination that this proposal **would not** have a significant effect on housing costs. Homeowners and occupants will be the beneficiaries of energy bill savings substantially in excess of compliance costs, making housing more affordable.

CONSIDERATION OF ALTERNATIVES

The Energy Commission has determined that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the Energy Commission would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review at the Energy Commission's Dockets Office, by contacting the persons named below, or on this website:

www.energy.ca.gov/2008_standards/rulemaking

Interested parties may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the contact persons named below or through this website.

**ENERGY COMMISSION CONTACT
PERSON FOR PROCEDURAL AND
ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to

Chris Gekas, Contract Manager
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street, MS-25
Sacramento, CA 95814
(916) 654-8435
Email: cgekas@energy.state.ca.us

**CONTACT PERSON FOR SUBSTANTIVE
AND/OR TECHNICAL QUESTIONS ON
THE PROPOSED CHANGES TO
BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Mazi Shirakh
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street, MS-25
Sacramento, CA 95814
(916) 654-3839
Email: mshirakh@energy.state.ca.us

If Mr. Shirakh is not available, contact:

Rob Hudler
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street, MS-25
Sacramento, CA 95814
(916) 654-4072
Email: rhudler@energy.state.ca.us

CONTACT PERSONS FOR OTHER ASSISTANCE

For assistance in participating in the rulemaking proceeding, please contact Laura Murphy at the Energy Commission's Public Adviser's Office, at (916) 654-4489, toll free (800) 822-6228, or by email at pao@energy.state.ca.us.

If you have a disability and require special accommodations, please contact Lou Quiroz at (916) 654-5146 (five days prior to the public hearing).

FINAL STATEMENT OF REASONS

If the proposed amendments are adopted, the Energy Commission will prepare a Final Statement of Reasons. This document will update the Initial Statement of Rea-

sons and respond to public comments. This document can be obtained after the conclusion of the rulemaking by contacting Chris Gekas at (916) 654-8435 or by email at cgekas@energy.state.ca.us.

WEBSITE INFORMATION

The Initial Statement of Reasons, Express Terms, this Notice, and any 15-day language issued subsequently can be accessed at the Energy Commission's website at www.energy.ca.gov/2008_standards/rulemaking.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication November 16, 2007

**CESA CONSISTENCY DETERMINATION
REQUEST FOR**

Embankment Rehabilitation of State Route 20 Project
Colusa County

The Department of Fish and Game (Department) received a notice on October 30, 2007 that the California Department of Transportation (Caltrans) proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project consists of stabilizing the embankment slopes of the Interstate 5 separation bridge and the North Williams Overhead Bridge by lime treating and/or replacing the problematic embankment fill material. Project activities associated with staging and construction will result in temporary impacts to approximately 8.55 acres of upland habitat suitable for the giant garter snake (*Thamnophis gigas*), and could result in mortality of individuals of the species.

The U.S. Fish and Wildlife Service (Service) issued a programmatic "no jeopardy" federal biological opinion (1-1-03-F-0154)(Programmatic BO) and incidental take statement (ITS) to the Federal Highway Administration (FHWA) on January 24, 2005 which considers the effects of small highway projects on the Federally and State threatened giant garter snake. On September 5, 2007 the Service issued the FHWA an append letter (1-1-07-F-0327) approving the inclusion of the Embankment Rehabilitation of State Route 20 Project in the Programmatic BO. On September 22, 2007 the Service issued an amendment to the append letter that corrected a typographical error in the append letter and cla-

rified that the project would result in temporary impacts only. Pursuant to California Fish and Game Code Section 2080.1, Caltrans is requesting a determination that the Programmatic BO and ITS are consistent with CESA for purposes of the proposed Project. If the Department determines the Programmatic BO and ITS are consistent with CESA for the proposed Project, Caltrans will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the project.

DEPARTMENT OF FISH AND GAME

California Department of Fish and Game Consistency Determination Fish and Game Code Section 2080.1 California Endangered Species Act (CESA) No. 2080-2007-027-04

Project: Mendota State Route 180 East
Rehabilitation Project
Location: Mendota, Fresno County
Notifier: Department of Transportation
(Caltrans)

BACKGROUND

The proposed project is a coordinated effort between Caltrans and the Federal Highway Administration ("FHWA"). Caltrans proposes to rehabilitate and widen the existing pavement along approximately 2.7 miles of State Route (SR) 180 from Belmont Avenue in Mendota to the San Joaquin Valley Railroad Crossing, in western Fresno County (Post Mile (PM) 24.6 to PM 27.3). Project activities include symmetrical and asymmetrical widening of the roadbed, raising of the roadway profile, addition of a westbound left-turn lane at SR180 and Panoche Road, creation or improvement of conveyance ditches and installation of concrete box culverts on both sides of SR 180, and relocation of the at-grade Whitesbridge San Joaquin Railroad Crossing. Additionally, three bridges along the project alignment where SR 180 crosses Kings Slough (aka Fresno Slough) will be rehabilitated and widened. Activities associated with bridge rehabilitation include widening of the roadbed, which will require installation of new piles, and upgrading of bridge rails, which involves the installation of terminal sections at approach guardrails, adjustment of guardrails, and extension of guardrail height. As part of the project, a temporary detour from Belmont Avenue to the Panoche/San Benito Road intersection will be constructed. Construction of the detour

will require modifications to the San Luis Drain and a private canal.

There are several recent sightings of the State Threatened and Federally Endangered San Joaquin kit fox (*Vulpes macrotis mutica*; "kit fox") within 10 miles of the project site, to the north, east, and west (CDFG 2004). A kit fox core population and travel corridor exist a few miles west of the project site. In addition, kit foxes may move nine miles or more in a single night (USFWS 1998). Suitable habitat is found in and adjacent to the proposed project in the form of Valley salt bush scrub, ruderal grasslands and agricultural lands. Caltrans proposes to mitigate impacts to 1.2 acres of kit fox habitat through the protection and management in perpetuity of 1.87 acres of kit fox habitat.

There have been four sightings of the State and Federally Threatened giant garter snake (*Thamnophis gigas*) in the vicinity of the project site, including 14 giant garter snakes that were observed in the southern portion of Kings Slough. Caltrans proposes to mitigate impacts to 0.72 acres of giant garter snake habitat through the protection and management in perpetuity of 6.51 acres of giant garter snake habitat consisting of 2.17 acres of aquatic habitat and 4.34 acres of upland habitat.

Because of the Project's potential for take of the listed kit fox and giant garter snake, the FHWA consulted with the U.S. Fish and Wildlife Service ("Service"), as required by the Endangered Species Act ("ESA") (16 U.S.C. § 1531 et seq.). On May 7, 2004, the Service issued a Biological Opinion (1-1-07-F-0326; "BO") and incidental take statement, describing the Project actions and setting forth measures to mitigate impacts to kit fox and giant garter snake and their habitat. On September 18, 2007, the Service issued an amendment to the BO to address changes in the project description and the compensatory mitigation requirements for giant garter snake. All changes included in the amended BO are reflected in the Background and Determination portions of this document.

Because San Joaquin kit fox and giant garter snake are also listed as threatened species under the California Endangered Species Act, Fish and Game Code section 2050 *et seq.* ("CESA"), on October 4, 2007, Caltrans notified the Director of the Department of Fish and Game ("DFG") pursuant to Fish and Game Code Section 2080.1, requesting a determination that the BO as amended, including its incidental take statement is consistent with CESA.

DETERMINATION

DFG has determined that the BO (1-1-07-F-0326) as amended, including its incidental take statement, is consistent with CESA because the mitigation measures contained therein meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c)

for authorization of incidental take of species protected under CESA. Specifically, DFG finds that the measures identified in the BO will minimize and fully mitigate the project's potential impacts to kit fox and giant garter snake. These measures include, but are not limited to, the following:

General Minimization Measures:

1. To prevent harassment, injury or mortality of San Joaquin kit fox, giant garter snake, or destruction of their dens or burrows by dogs or cats, no pets will be permitted on the project site.
2. An employee education program on San Joaquin kit fox, giant garter snake, their habitats, protected status, and measures to reduce project effects must be conducted by the on-site biologist before groundbreaking for the SR180 project.
3. Project-related vehicles will observe a 20-mph speed limit within construction areas, except on County roads, and State and Federal highways. Off-road traffic outside of designated project areas will be prohibited.
4. A qualified biologist, approved by the Service, will be on-site during all activities that may result in the take of San Joaquin kit fox or giant garter snake. The biologist will be given the authority to stop any work that may result in take of these species. If this authority is exercised, the Service and DFG will be notified by telephone and electronic mail within one working day.
5. If requested, before, during or upon completion of the project, Caltrans will allow access by the Service and/or DFG personnel to the project site to evaluate project-related impacts to the giant garter snake and/or San Joaquin kit fox.
6. To prevent inadvertent entrapment of San Joaquin kit fox and giant garter snake during construction, all excavated, steep-walled holes or trenches more than two feet deep will be covered at the end of the workday or provided with one or more escape ramps. Before such holes or trenches are filled, they must be thoroughly inspected for trapped animals. If a trapped listed animal is discovered, the biologist should immediately provide ramps to allow the animal to escape. If this is insufficient the Service and/or DFG will be contacted for guidance.
7. Upon completion of the project, all San Joaquin kit fox, and giant garter snake habitat subject to temporary ground disturbance will be re-contoured, if appropriate, and revegetated using local seeds and/or cuttings and methods approved by the USFWS to promote restoration to

pre-project conditions. The on-site biologist will ensure that these areas are adequately restored.

Measures Specific to Kit Fox:

8. The entire project length will be surveyed on foot prior to construction. These surveys will look for any potential kit fox dens as well as signs of recent kit fox activity within the project area.
9. To eliminate an attraction to predators of the San Joaquin kit fox, all food related trash items must be disposed of in closed containers and removed at least once every two days from the entire project site.
10. To avoid injury or death of the San Joaquin kit fox, no firearms will be allowed on the project site, except for authorized security personnel, or local, State, or Federal law enforcement officials.
11. Compensation for impacts to San Joaquin kit fox habitat will be 1.1:1 for permanent and 0.3:1 for temporary impacts to agricultural land, and 3:1 for permanent impacts and 1.1:1 for temporary impacts to valley saltbrush scrub. Caltrans estimates the following habitat impact acreages and will provide the following compensation to offset those impacts:

Kit Fox Habitat Impacts

Impact Type	Habitat Type	Impacted Acres	Compensation Acres
Permanent	Agricultural Land	0.28	0.31
Temporary	Agricultural Land	0.32	0.10
Permanent	Saltbrush Scrub	0.42	1.26
Temporary	Saltbrush Scrub	0.18	0.20
	Totals	1.20	1.87

Measures Specific to Giant Garter Snake:

12. Twenty-four hours prior to construction activities the project area will be surveyed for giant garter snakes. Surveys of the project area will be repeated if a lapse in construction activity of two weeks or greater has occurred. If a snake is encountered during construction, activities will cease until appropriate corrective measures have been completed or it has been determined that the snake will not be harmed. Any sightings and any incidental take of the giant garter snake will be reported to the Service immediately by telephone a (916) 414-6600.
13. Any dewatered habitat will remain dry for at least 15 consecutive days after April 15 and prior to excavating or filling of the dewatered habitat.
14. Exclusion fencing will be installed around work areas to prevent giant garter snakes from entering these areas, and around all new ditches are to be constructed prior to filling the existing ditches. Silt fencing of quarter inch wire mesh will be installed to a depth of 3 inches and will span between the

construction areas and the shoulders of both SR180 and intersecting local roads where canals or headwalls are present. This exclusion fencing is required only at the intersections, culverts, or headwalls to be realigned.

15. Caltrans will implement Best Management Practices (BMPs) to prevent sediment from entering areas containing giant garter snake habitat.
16. The project area will be re-inspected by the monitoring biologist whenever a lapse in construction activities of two weeks or greater has occurred.
17. Movement of heavy equipment to and from the project site will be restricted to established roadways to minimize habitat disturbance. Stockpiling of construction materials, including portable equipment, vehicles, and supplies will be restricted to the designated construction staging area. Giant garter snake habitat adjacent to the project area will be flagged and avoided by all construction personnel.
18. Plastic mono-filament netting (erosion control matting) or similar material will not be used to prevent giant garter snake entanglement. Acceptable substitutes include coconut coir matting or tackified hydra-seeding compounds.
19. All earthmoving and construction activity within giant garter snake habitat will be conducted between May 1 and October 1. If it appears that construction may need to go beyond October 1, Caltrans will contact the Service as soon as possible, but not later than September 15, to determine if additional measures are needed to minimize take.
20. Caltrans shall compensate for the loss of 0.72 acres of aquatic giant garter snake habitat by preserving and managing 2.17 acres of aquatic habitat and 4.34 acres of upland habitat for giant garter snake.

Habitat Compensation:

21. Caltrans must obtain approval from the Service that the habitat compensation parcels are suitable for San Joaquin kit fox and giant garter snake prior to acquisition. The fee title or conservation easement will be obtained by Caltrans at least 60 calendar days prior to the date of initial groundbreaking, or on or before a date that the Service has agreed to in writing.
22. If conservation easements are used, they will include, but not be limited to, provisions and responsibilities of the project proponent and the land trust organization approved by the Service for the protection of all habitats set aside including

any future transfers of the easement that may be anticipated. The easement will specify the purposes for which it is established and list prohibited activities that are inconsistent with the maintenance of the preserve for the listed species.

23. If Caltrans seeks to obtain a conservation easement in lieu of fee title acquisitions, then Caltrans will provide the language of the proposed conservation easement to the Service for prior review and approval. Should Caltrans make fee title acquisition of lands to satisfy the terms and conditions of this biological opinion, Caltrans will encumber such lands with restrictive covenants that provide the same right to the Service as would be established under the conservation easement and will be provided to the Service for prior review and approval.
24. If Caltrans plans to acquire fee title or conservation easement for lands that are not in a Service-approved conservation bank, Caltrans shall, prior to the date of initial groundbreaking, endow a Service-approved fund* for monitoring and perpetual management and maintenance of the 1.87 acres of kit fox habitat and 6.51 acres of giant garter snake habitat. The principal in the endowment must generate sufficient revenue to fully cover the costs of ongoing operations and management actions as described in the Service-approved management plan and the BO, without the need to make use of the principal.

Pursuant to Fish and Game Code section 2080.1, incidental take authorization under CESA will not be required for incidental take of GGS for the project, provided Caltrans implements the project as described in the BO, as amended, and complies with the mitigation measures and terms and conditions described therein. If there are any substantive changes to the project, including changes to the mitigation measures, or if the Service amends or replaces the BO, Caltrans will be required to obtain a new consistency determination or a CESA incidental take permit (in accordance with Fish and Game Code section 2081) from DFG.

DFG requests that Caltrans provide copies of all annual reports, other monitoring reports, and other circulated materials relevant to the Project's impacts to San Joaquin kit fox and giant garter snake to DFG at the following address or at any substitute location that DFG may subsequently identify.

San Joaquin Valley and Southern Sierra Region
Department of Fish and Game
1234 East Shaw Avenue
Fresno, California 93710

* DFG requires that all endowments be held in its own funds.

RULEMAKING PETITION DECISIONS

AIR RESOURCES BOARD

October 26, 2007

Mr. Peter Rooney
P.O. Box 1732
Bodega Bay, California 94923

Re: Petition Requesting the Amendment of Sections 2485(c)(2)(A) and 2485(c)(3)(A) of Title 13, California Code of Regulations — 2008 Truck Idling Requirements

Dear Mr. Rooney:

On September 25, 2007, the California Air Resources Board (ARB or Board) received letters from Pony Pack Inc., Frigette Truck Climate Systems, Auxiliary Power Dynamics LLC, and yourself that collectively request ARB to postpone the effective dates of sections 2485(c)(2)(A) and 2485(c)(3)(A) of title 13, California Code of Regulations (CCR).¹ We are treating your letter as a Petition under Government Code section 11340.6, and by this letter, I am advising you that ARB has denied your Petition.

As you are aware, Government Code section 11340.6 provides that “any interested person may petition a state agency requesting the adoption, amendment, or repeal of a regulation as provided in [the California Administrative Procedure Act provisions on rulemakings].” Such a petition must “clearly and concisely” state: “the substance or nature of the regulation, amendment or repeal requested,” “[t]he reason for the request,” and “[r]eference to the authority of the state agency to take the action requested.” (Gov. Code section 11340.6(a)–(c)).

The Board may delegate any duty it deems appropriate to its Executive Officer (Health and Safety Code section 39515(a)). Moreover, the Board is conclusively presumed to have delegated any of its powers to the Executive Officer unless it has expressly reserved that power to itself (Health & Safety Code section 39516.) The Board has not reserved the power to act on rulemaking petitions and it is therefore appropriate for me to deny the Petition pursuant to my delegated authority. The basis for my denial is set forth in this letter and its accompanying attachments.

¹ The Petition cites “section 2485 (2)A” and “section 2485 C(3)” of title 13, CCR, but section 2485(2) A does not exist. However, after reading the letters, it is clear that the Petition is intended to refer to sections 2485(c)(2)(A) and 2485(c)(3)(A), and we are accordingly treating it as such.

The Regulatory Provisions Addressed by the Petition

The Petition requests that ARB postpone the effective date of two subsections of title 13, CCR, section 2485 that were adopted as part of the rulemaking “Requirements to Reduce Idling Emissions from New and In-Use Trucks, Beginning in 2008” (hereinafter 2008 Truck Idling Requirements). I begin with a brief overview of that rulemaking’s key elements.

The 2008 Truck Idling Requirements consist of three primary components: (1) a new requirement that new 2008 and subsequent model-year heavy-duty diesel engines (HDDE) incorporate an engine shutdown system, (2) an amendment to an existing air toxic control measure (ATCM) that requires sleeper-berth equipped heavy-duty diesel vehicles (HDDV) over 10,000 lbs gross vehicle weight rating (GVWR) to limit idling to a 5 minute period, and (3) a new requirement that establishes emission requirements for alternative technologies (such as auxiliary power systems (APS)) and fuel-fired heaters that might be operated on both new and in-use trucks for to provide cooling and/or heating previously supplied by the main engine.

New 2008 and Subsequent Model Year HDDE Requirements

The 2008 Truck Idling Requirements have two related, yet distinct, goals. One goal is to reduce idling emissions from new California certified HDDEs. Specifically, new California certified 2008 and subsequent model year on-road diesel engines in trucks with a GVWR greater than 14,000 pounds must be equipped with an engine shutdown system that automatically shuts down the engine after five minutes of continuous idling. In lieu of the engine shutdown system, manufacturers may optionally certify their engines to a NOx idling emission standard of 30 grams per hour under loaded, low and high idle operating conditions. These requirements will hereinafter be referred to as the “new engine requirements.”

Amendments to Idling ATCM to Include In-Use Sleeper Berth Equipped HDDVs

The other goal of the 2008 Truck Idling Requirements is to reduce idling emissions in California from the existing fleet of sleeper trucks, whether they are registered in California or another state. The existing idling ATCM in title 13, CCR, section 2485 previously exempted sleeper-berth equipped trucks when the operator was resting in the sleeper berth and idling the main engine for climate control or to power on-board accessories. The 2008 Truck Idling Requirements removed the exemption for sleeper berth equipped trucks and now require sleeper truck operators to manually shut off the engine after five minutes of continuous idling starting January 1, 2008. These requirements will hereinafter

ter be referred to as the “in-use idling ATCM requirements.”

Alternative Technologies for New and In-Use HDDV

In the course of developing the 2008 Truck Idling Requirements, staff recognized that many HDDV operators will likely utilize alternative technologies to supply power for truck cab or sleeper berth climate control and/or for other on-board accessories that would otherwise have been generated by the continuous idling of the truck’s main engine. These technologies include, but are not limited to, internal combustion engine driven APS and fuel-fired heaters. To ensure that such technologies do not undermine the emissions benefits of the 2008 Truck Idling Requirements, ARB established performance requirements applicable to such alternative technologies. Alternative technologies that meet the performance requirements may be used on both new and in-use HDDEs and HDDVs.

Currently, the most widely used on-board auxiliary devices on sleeper trucks are APS powered by small diesel-fueled internal combustion engines equipped with generators/alternators. These APS are subject to existing ARB off-road emission standards because they are not used to propel motor vehicles. The vast majority of off-road engines used in APS applications are rated at less than 19 kW (26.03 hp). These requirements will hereinafter be referred to as the “alternative technology requirements.”

A primary consideration in developing the alternative technology emission requirements was to ensure that the requirements would not undermine the new 2007 on-road HDDE emission standards. Specifically, starting in 2007, new on-road California-certified diesel engines are subject to aftertreatment-based diesel particulate matter (PM) standards that are more stringent than the recently adopted Tier 4 off-road PM standards applicable to diesel-fueled APS.² Therefore, unless safeguards were incorporated into the alternative technology requirements, PM emissions from diesel-fueled APS would overwhelm the PM emissions benefits of the 2008 Truck Idling Requirements. ARB has accordingly established APS emission requirements that are dependent on the model year of the truck engine utilizing the APS.

² At its public hearing on December 9, 2004, ARB approved amendments to its off-road CI regulations to harmonize ARB’s standards and test procedures with the federal standards and test procedures specified in its Tier 4 rulemaking (40 CFR Part 89) and the subsequent Omnibus Technical Amendments (70 Fed. Reg. 40240 (July 13, 2005)), while still maintaining the emission benefits of the current California program. The ARB Tier 4 exhaust emission standards for new off-road CI engines rated less than 19 kW are scheduled to be implemented starting with the 2008 model year.

General APS emission requirements

Internal combustion engines used in APS must comply with the California or federal non-road emission standards and test procedures applicable to their fuel type and horsepower category of the engines.

Diesel-fueled APS emission requirements

2007 and subsequent model-year trucks

Diesel-fueled APS operated on trucks equipped with 2007 and subsequent model year HDDEs must comply with the California or federal non-road emission standards and test procedures applicable to the horsepower category of the engines and must either:

- (i) have their exhaust routed into the truck’s exhaust system so that the APS’s PM emissions are controlled by the truck’s PM trap (title 13, CCR, section 2485(c)(3)(A)1.b), or
- (ii) be equipped with a level 3 verified PM control strategy (i.e., achieve a 85% PM reduction efficiency).³ (title 13, CCR, section 2485(c)(3)(A)1.a). ARB’s verification procedures involve a thorough evaluation of the emission reduction capability of a trap and of its durability to ensure that the emission reductions achieved by the trap are both real and durable, and that production units in the field are achieving emission reductions that are consistent with the verification. It also requires the manufacturer to warrant that its PM trap is free from defects in design, materials, workmanship, and that operation of the trap achieves the emission reduction levels it was verified to, or
- (iii) subject to advance Executive Officer approval, use other procedures to demonstrate an equivalent level of emissions compliance (compared to a level 3 verified PM control strategy). (title 13, CCR, section 2485(c)(3)(A)2.)

2006 and older model-year trucks

Diesel-fueled APS operated on trucks equipped with 2006 or older model-year diesel engines need only comply with the California or federal non-road emission standards and test procedures applicable to the horsepower category of the engines, since 2006 and older model year HDDEs are not equipped with PM aftertreatment systems and PM emissions from diesel APS are not greater than the PM emissions from idling main engines.

Other idle reduction technologies

Other technologies that do not directly produce emissions, such as battery electric APS, fuel cell APS, thermal energy storage devices, and power inverter char-

³ The PM trap verification procedure and in particular, the level 3 verification level, are specified in title 13, CCR, sections 2700 to 2710.

gers for use with battery and grid-supplied electricity are also allowed. Any technology that is not otherwise specifically identified in the 2008 Truck Idling Requirements may also be used provided it is approved by the Executive Officer. Alternative technologies that comply with these performance requirements can be used on both new and in-use HDDVs.

Technical Feasibility of Emission Requirements for Diesel-Fueled APS Operated on 2007 and Newer Model HDDE

The Petition's primary basis for postponing the effective date of the emission requirements applicable to diesel-fueled APS operated on trucks with 2007 and subsequent model year HDDEs is its claim that neither the primary nor the secondary compliance option is technically feasible. Routing a diesel APS's exhaust into the truck's main exhaust system is not feasible according to Frigette Truck Climate Systems because truck manufacturers will not allow such modifications. Frigette states its representatives have attended meetings where ARB "spokespeople have acknowledged that OEM truck manufacturers DO NOT authorize integration into main truck engine exhausts from a third party." (emphasis in original). With respect to installing a Level 3 verified PM control strategy on diesel-fueled APS, Pony Pack Inc., Auxiliary Power Dynamics, LLC, and you state that no such strategies have been verified to date for these applications,⁴ and the current non-availability of such strategies contradicts staff's testimony to the Board at the October 20, 2005 public hearing wherein staff informed the Board that it anticipated that Level 3 PM control strategies would be available by January 1, 2008. Frigette states it is trying to "develop and/or purchase an aftertreatment device to meet CARB's 2008 standards but to date have not had sufficient time to test or prototype a finished product." The Petition therefore seeks a postponement of the emissions requirements applicable to diesel-fueled APS operated on 2007 and newer trucks until Level 3 PM control strategies have been verified for diesel-fueled APS.⁵

The Petition also seeks an additional postponement of the emission requirements even after Level 3 PM control strategies have been verified, to provide time to resolve engineering and manufacturing issues that

would presumably arise from the application of such strategies onto specific models of diesel-fueled APS.⁶

Technical Feasibility of Compliance Options for Diesel-Fueled APS

The first basis asserted for postponing the effective dates of the subject emission requirements is the statement that compliance with either of the options for diesel-fueled APS is not possible by January 1, 2008; this basis is predicated on the assumption that diesel-fueled APS are a necessary compliance option of the alternative technology requirements. However, based on a review of recent information and of documents relevant to the 2008 Truck Idling Requirements rulemaking, including the transcript of the public hearing and the initial and final statements of reasons for the rulemakings, I find that such assertions and assumptions are not entirely accurate or warranted.

As a threshold matter, I note that during the 2008 Truck Idling Requirements rulemaking, ARB did not receive any comments questioning the technical feasibility of routing a diesel APS's exhaust upstream of the main engine's diesel particulate trap. However, Frigette maintains that the option of routing the APS exhaust into the truck's exhaust is not feasible because OEM truck manufacturers will not authorize third parties to perform such modifications. Even if this assertion is true, it does not constitute sufficient grounds to postpone the emission requirements because a third party modifier does not need an OEM truck manufacturer's guidance or approval to obtain an exemption from Vehicle Code sections 27156 and 38391. (See Final Statement of Reasons (FSOR), Attachment A, Comments and Agency Response to Comments 35 and 36, pp. 35-36). I also note that this option may be used by engine or truck manufacturers, and as anticipated by staff, at least one major engine manufacturer has submitted an application for certification for its fully integrated APS and truck exhaust system for the 2008 model year.

ARB does not dispute the Petition's statement that no Level 3 particulate matter control strategies for diesel APS have yet been verified; however, several APS manufacturers have submitted applications to verify Level 3 particulate matter devices for APS applications for idling trucks that are presently being reviewed and processed by staff. In addition, the Petition's underlying assumption that diesel-fueled APS are a necessary and essential compliance option of the alternative technology requirements is not supported by the documents relevant to the rulemaking.

It is true that in developing the regulation, staff acknowledged that the majority of APS currently used as alternatives to idling a truck's main engine are diesel-fueled (Staff Report: Initial Statement of Reasons (ISOR), V.C.i.1, Attachment B, p. 28), estimated the

⁴ Pony Pack Inc. and Auxiliary Power Dynamics, LLC reference a quotation from ARB employee Mr. Dimitri Stanich in the August 1, 2007 Common Carrier Journal Daily: "At this time, no level three particulate matter control device has been verified and approve [sic] for use in APU applications."

⁵ Pony Pack Inc. and Auxiliary Power Dynamics, LLC additionally seek a postponement until such time that ARB has verified devices from two suppliers.

⁶ Pony Pack Inc., Auxiliary Power Dynamics, LLC, and you request this additional development time.

compliance costs of the regulation by assuming trucking businesses would purchase diesel-fueled APS (ISOR, VII.F, p. 38–40), and calculated the emission benefits and the cost effectiveness of the regulations by assuming that 2007 and subsequent model year sleeper trucks would employ diesel-fueled APS verified to a level 3 or 85% PM reduction from the Tier 4 off-road standards (ISOR, pp. 44–45, 50–52). Staff also stated that it calculated the cost-effectiveness of the regulation based on the highest cost that a truck operator would incur to comply with the regulation (2008 truck with an engine shutdown system and diesel-fueled APS with a level 3 verified PM device; ISOR IX.B., p. 50). However, these considerations do not detract from the fact that the 2008 Truck Idling Requirements were deliberately designed to be “technology neutral.” Specifically, the regulation provides regulated entities a wide range of compliance options, and does not mandate or compel regulated entities to utilize any one specific technology or strategy.

Optional 30g/hr NOx Idling Standard

For example, heavy-duty diesel vehicles using 2008 and newer engines certified to the optional NOx idling emission standard (13 CCR § 1956.8(a)(6)(C)) are exempted from the in-use idling ATCM, provided they are located beyond 100 feet of a restricted area (13 CCR § 2485(d)(1)(A)).⁷ During the rulemaking, staff did not anticipate that manufacturers would widely utilize this compliance option before 2010 (ISOR, p. 13; FSOR, pp. 23–24), but staff now indicates that substantially more manufacturers will be certifying 2008 model year engines to this option than it previously anticipated.⁸

Battery Powered APS, Truck Stop Electrification, and Thermal Energy Storage Systems

The alternative technology requirements allow any compliance strategies to be used provided they are at least as effective in reducing idling emissions as the emission requirements applicable to internal combustion engine powered APS or the optional NOx idling emission standard (title 13, CCR, section 2485(c)(3)(C)). Such alternatives include, without limitation, battery powered APS, thermal energy storage systems, truck stop electrification, and off-board power infrastructure such as that developed by IdleAire Technologies. Representatives from companies producing such alternative technologies testified at the October 20, 2005 public hearing that their products were presently commercially available and had payback pe-

riods of less than a year, which was comparable to staff’s projected payback period of 1.5 to 2.5 years.⁹

Internal Combustion APS

With respect to internal combustion engine powered APS, manufacturers are not compelled to only use diesel-fueled APS. In fact, APS fueled by gasoline need only comply with applicable California or federal off-road standards for the fuel type and power category of the engine (title 13, CCR, section 2485(c)(3)(A)1.), and are therefore exempted from the verification and the exhaust routing requirements applicable to diesel fueled APS.

Diesel APS

Finally, the regulation does not preclude other compliance strategies for diesel-fueled APS such as power inverter/chargers with electrically driven air conditioning and heating system (ISOR IV. B.ii., p.15). Petitioner Pony Pack is aware that the regulation provides flexibility to utilize other compliance options, as it submitted a comment during the rulemaking that “[a] Level 3 verified particulate filter for a diesel APS using a Tier 4 engine is not yet commercially available. We currently know of no such device for this application. A better course of action would be to require the use of an automatic shut-down/restart cycling system of the small engine when used in an APS.” (Pony Pack) (FSOR p. 37; Comment 30 and Agency Response thereto).

Technology Neutral Aspect of the 2008 Truck Idling Requirements

The technology neutral aspect of the regulation was extensively discussed in the FSOR.

“As stated in the Agency Response to Comments 31 through 33, this rulemaking does not mandate usage of a diesel APS.” (FSOR, Agency Response to Comment 34, p. 38)

“As stated in the Agency Response to Comments 31 through 33, this rulemaking does not require the use of a diesel APS, and a truck operator can choose to use any of the many alternative technologies available in the market. If the owner/operator does not want to spend money on these devices, he or she can adjust his schedule and find a truck stop that provides off-board climate control such as that provided by IdleAire

⁷ The HDDV must also be labeled in accordance with 13 CCR § 1956.8(b) [13 CCR § 2485(d)(1)(B)].

⁸ These manufacturers include Caterpillar, Cummins, Detroit Diesel Corporation, Ford, and Hino.

⁹ Specifically, Webasto’s Blue Cool Truck parking cooler (thermal energy storage system) has a payback period of 30 weeks or less [Transcript of October 20, 2005 Public Hearing in the 2008 Truck Idling Requirements rulemaking, hereinafter “Transcript”, 221:23 to 224:5; Attachment C]; IdleAire stated that it intended to expand its truck stop electrification services in California to approximately three to four times the amount of its current levels [Transcript 225:21–23]; Idling Solutions and Coval Partners discussed its battery powered system that is currently available and has a projected payback period of less than one year [Transcript, 234:5 to 235:20].

Technology.” (FSOR, Agency Response to Comment 38, p. 40)

“The rule clearly does not compel the installation of any device on heavy trucks. The primary compliance option of this rulemaking is for a trucker to simply manually shut down the truck engine after 5 minutes of idling, but the rulemaking also sets performance requirements for technologies that may be used as alternatives to engine idling. *Any technology that meets those requirements can be used, including off-board technologies.*” (FSOR, Agency Response to Comment 41, p. 41, *emphasis supplied*).¹⁰

Mr. Stephan Lemieux, Manager of the On-Road Heavy-Duty Diesel Section, testified at the public hearing that in developing the regulation, ARB staff tried to be technologically neutral and considered banning APS all together, because of progress in alternative technologies such as battery electrics and other available cleaner technologies. However, staff eventually decided to “strike a line in making an even playing field for all technologies.” (Transcript, 245:15 to 246:1).

In summary, based on the facts that the regulation does not mandate the installation of alternative technologies, that petitioners do not need to obtain an OEM truck manufacturer’s guidance or approval to obtain an exemption from Vehicle Code sections 27156 and 38391, that at least one major APS manufacturer has submitted an application to verify a Level 3 PM device for diesel-fueled APS intended for use on idling trucks, that recent information indicates manufacturers are utilizing options other than diesel-fueled APS to comply with the regulation, that alternative technologies are presently commercially available, and that the regulation provides a range of compliance options besides the utilization of diesel-fueled APS, I am not persuaded that the emission requirements applicable to diesel-fueled APS must be postponed.

The Petition’s Request for Further Postponement to Allow for the Resolution of Engineering and Manufacturing Issues

The Petition also seeks a postponement of the emission requirements even after Level 3 PM control strategies have been verified, to provide additional time to resolve engineering and manufacturing issues that would presumably arise from the application of such strategies onto specific diesel-fueled APS.

This issue was fully presented and addressed in the 2008 Truck Idling Requirements FSOR. The listed public comments included: “Even if a Level 3 PM trap for the small engines powering APS becomes available, there is not enough time to integrate the device into this application and then conduct enough field testing and design refinement to ensure the APS will perform satisfactorily and reliably. . . .” (Truck Manufacturers Association) (FSOR, Comment 34, p.38); “Both trucking businesses and equipment manufacturers need adequate time to test and evaluate compliance technologies. Ideally, fleets would like two years lead time to test and evaluate new equipment. Since APS manufacturers will have just over two years to develop compliant equipment (if feasible), fleets will not have adequate time to test and prove the reliability of 2007+ trap-equipped APS in over-the-road application. . . .” (American Trucking Association) (FSOR, Comment 38, p.40).

Staff responded to these comments as well as other comments requesting the Board delay the implementation date of the regulation,¹¹ and I will not revisit or revise those responses here.

Emission Consequences of Postponement

Finally, in evaluating this Petition I must necessarily consider the emissions consequences resulting from a postponement of the subject provisions. The 2008 Truck Idling Requirements are a component of the 2003 State and Federal Strategy for the California State Implementation Plan (2003 SIP) measure ON-ROAD HEAVY-DUTY-3, defining strategies to reduce emissions from existing and new heavy-duty diesel vehicles,¹² and contributing towards ARB’s fulfillment of the committed emission reductions of the 2003 SIP. These reductions are substantial, as staff estimated statewide projected emissions to be approximately 46 tons per day (tpd) of NOx, 4.2 tpd of reactive organic gases (ROG), and 0.42 tpd of particulate matter in the year 2010.¹³ Furthermore, the regulation is estimated to reduce CO2 emissions by nearly 1930 tpd by 2010.¹⁴

Postponing the emissions requirements for diesel-fueled APS would compromise these emission reductions. As explained throughout the rulemaking documents, staff established these requirements to ensure that the PM emissions from diesel-fueled APS (which are subject to the Tier 4 off-road compression ignition certification standards) do not exceed the PM emissions from 2007 and newer on-road heavy-duty diesel en-

¹⁰ See also FSOR, Agency Response to Comments 3 (pp. 19–20), 30 (p. 37), 31–33 (pp.37–38), 48 (p.43), and 69 (p.56).

¹¹ See FSOR, Comment 1 and Agency Response thereto, p. 18; Comments 31–33 and Agency Response thereto, pp. 37–38; Comments 44 and 45 and Agency Response thereto, p. 42; and Comment 59 and Agency Response thereto, pp. 49–50.

¹² Resolution 05–55, Attachment D, pp. 2–3.

¹³ ISOR, Table 6, p. 48.

¹⁴ ISOR, p. 46.

gines.¹⁵ These safeguards are especially important because diesel particulate matter has been identified as a toxic air contaminant for which there is *no safe threshold level of exposure*.¹⁶ Furthermore, given that the emission benefits of the regulation were calculated by assuming that all 2007 and newer sleeper trucks would utilize diesel-fueled APS equipped with a level 3 PM device,¹⁷ and by also assuming full compliance with the proposed requirements,¹⁸ the requested postponement would delay California's ability to realize the regulation's emissions benefits for a period of time that cannot reasonably be quantified or determined.

Postponing the diesel-fueled APS emission requirements would also be inequitable for those manufacturers that have expended resources in order to fully comply with the regulation by utilizing alternative compliance strategies besides diesel-fueled APS.

In conclusion, the Petition does not present any information that significantly differs from the information presented to and considered by the Board at the October 20, 2005 Public Hearing.

Conclusion

Based on the foregoing analysis, I find that the Petition has not demonstrated that postponing the emission requirements applicable to diesel-fueled APS in title 13, CCR, sections 2485(c)(3)(A) and 2485(c)(2)(A) is either consistent with the ARB's overall statutory charge to improve air quality by controlling emissions from motor vehicles, or is reasonably necessary to effectuate the purposes of our authorizing statutes.

The record upon which this denial is based includes the Petition that was transmitted to ARB by means of four separate letters. The record also includes this letter and all attachments hereto.

In accordance with Government Code section 11340.7(d), a copy of this letter is being transmitted to the Office of Administrative Law for publication in the California Regulatory Notice Register. You have not cited any authority for the requested action. The agency

contact person on this matter is Stephan Lemieux, Manager, On-Road Heavy-Duty Diesel Section at (626) 450-6162. Interested parties may obtain a copy of the Petition from Lori Andreoni, Clerk of the Board, 1001 I Street, P.O. Box 2815, Sacramento, California 95812, (916) 322-5594.

Sincerely,

/s/

Tom Cackette

Acting Executive Officer

Attachments

cc: Mr. J. Rex Greer, President
Pony Pack Inc.
1407 University Boulevard NE
Albuquerque, New Mexico 87102

Mr. Brad Hickman
Chief Executive Officer
Frigette Truck Climate Systems
1200 West Risinger Road
Fort Worth, Texas 76028

Mr. G. Eldon Willis
Auxiliary Power Dynamics, LLC
2060 East Greg Street
Sparks, Nevada 89431-6560

LIST OF ATTACHMENTS*

Attachment A: Final Statement of Reasons; Public Hearing to Consider Requirements to Reduce Idling Emissions from New and In-Use Trucks, Beginning in 2008
<http://www.arb.ca.gov/regact/hdvidle/fsor.pdf>

Attachment B: Staff Report: Initial Statement of Reasons; Notice of Public Hearing to Consider Requirements to Reduce Idling Emissions from New and In-Use Trucks, Beginning in 2008
<http://www.arb.ca.gov/regact/hdvidle/isor.pdf>

Attachment C: Transcript of October 20, 2005 Public Hearing to Consider Requirements to Reduce Idling Emissions from New and In-Use Trucks, Beginning in 2008
<http://www.arb.ca.gov/board/mt/mt102005.txt>

Attachment D: Resolution 05-55
<http://www.arb.ca.gov/regact/hdvidle/res0555.pdf>

*All of the attachments are available in electronic form on ARB's Internet web site.

¹⁵ "A Tier 4 certified diesel-fueled APS emitting at the certification PM emission standard of 0.4 g/kW-hr and providing an average power of 2.7 kW produces about 1.08 g/hr of PM emissions." ISOR, p.15 fn.8. The PM standard for 2007 and subsequent model-year heavy-duty diesel engines is 0.01 grams per brake horsepower-hour (g/bhp-hr). See also ISOR, IV.B.ii., p.15, IV.C., pp. 23-24, V.C.i.1., pp. 28-29, FSOR, Agency Responses to Comment 13 (pp. 25-26) and to Comments 28 and 29 (pp. 36-37).

¹⁶ Resolution 05-55, p. 1.

¹⁷ ISOR, IX.A. p. 45. Staff further assumed that 25 percent of on-road trucks in California are registered out-of-state, and that 90 percent of these trucks are sleeper trucks. *Ibid.*

¹⁸ *Id.* at p. 46

OAL REGULATORY DETERMINATIONS

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Date: November 2, 2007
 To: Terry K. Pleasant
 From: Chapter Two Compliance Unit
 Subject: **2007 OAL DETERMINATION NO. 21(S)**
(CTU 2007-1018-01)
 (Issued pursuant to Gov. Code, sec. 11340.5;
 Cal. Code Regs., tit. 1, sec. 270(f)(2)(C))

Petition challenging as an underground
 regulation California Code of Regulations,
 title 15, section 3191

On October 18, 2007, you submitted a petition to the
 Office of Administrative Law (OAL) asking for a deter-
 mination as to whether California Code of Regulations,
 title 15, section 3191 is an underground regulation.

In issuing a determination, OAL renders an opinion
 only as to whether a challenged rule is a “regulation” as
 defined in Government Code section 11342.600¹,
 which should have been, but was not, adopted pursuant
 to the Administrative Procedure Act (APA). Nothing in
 this analysis evaluates the advisability or the wisdom of
 the underlying action or enactment. OAL has neither
 the legal authority nor the technical expertise to evalu-
 ate the underlying policy issues involved in the subject
 of this determination.

If a rule meets the definition of a regulation in Gov-
 ernment Code section 11342.600, but was not adopted
 pursuant to the APA, it may be an “underground regula-
 tion” as defined in California Code of Regulations, title
 1, section 250:

The following definitions shall apply to the
 regulations contained in this chapter:

(a) “Underground regulation” means any
 guideline, criterion, bulletin, manual, instruction,
 order, standard of general application, or other
 rule, including a rule governing a state agency
 procedure, that is a regulation as defined in Section

¹ “Regulation” means every rule, regulation, order, or standard of
 general application or the amendment, supplement, or revision
 of any rule, regulation, order, or standard adopted by any state
 agency to implement, interpret, or make specific the law en-
 forced or administered by it, or to govern its procedure.

11342.600 of the Government Code, *but has not
 been adopted as a regulation and filed with the
 Secretary of State pursuant to the APA* and is not
 subject to an express statutory exemption from
 adoption pursuant to the APA. (Emphasis added)

Pursuant to Government Code section 11343.6, the
 filing of a rule with the Secretary of State raises the re-
 buttable presumption that it was duly adopted and that
 all the requirements of the APA have been met. You
 have challenged as an underground regulation Califor-
 nia Code of Regulations, title 15, section 3191. Section
 3191 was filed with the Secretary of State on September
 30, 1977. It has been amended several times since the
 original adoption; the most recent amendment was filed
 with the Secretary of State on August 13, 2007.

Section 3191, then, has been adopted as a regulation
 and filed with the Secretary of State pursuant to the
 APA. There is no evidence to rebut the statutory pre-
 sumption established pursuant to Government Code
 section 11343.6. The challenged rule is not, therefore,
 an underground regulation.²

Date: November 2, 2007

/s/
 Susan Lapsley
 Director

/s/
 Kathleen Eddy
 Senior Staff Counsel

Office of Administrative Law
 300 Capitol Mall, Suite 1250
 Sacramento, CA 95814
 (916) 323-6225

²A rule which is contained in a properly adopted regulation is the
 proper subject of a summary disposition letter. California Code of
 Regulations, Title 1, section 270, subdivision (f) provides:

(f)(1) If facts presented in the petition or obtained by OAL
 during its review . . . demonstrate to OAL that the rule chal-
 lenged by the petition is not an underground regulation,
 OAL may issue a summary disposition letter stating that
 conclusion. A summary disposition letter may not be used
 to conclude that a challenged rule is an underground regula-
 tion.

(2) Circumstances in which facts demonstrate that the rule
 challenged by the petition is not an underground regulation
 include, but are not limited to, the following:

(A) The challenged rule has been superseded.
 (B) The challenged rule is contained in a California statute.
 (C) *The challenged rule is contained in a regulation that
 has been adopted pursuant to the rulemaking provisions of
 the APA.*
 (D) The challenged rule has expired by its own terms.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2007-0925-04
Board of Optometry
Forms to License An Out of State Optometrist

This regulatory submission amends section 1523 of Title 16 by adding a provision regarding applications from out-of-state optometrists who must be at least 18 years of age and apply for California licensure on two forms which are incorporated by reference.

Title 16
California Code of Regulations
AMEND: 1523
Filed 11/07/2007
Effective 11/07/2007
Agency Contact: Gary Randolph (916) 575-7173

File# 2007-0918-02
BOARD OF PHARMACY
Notice to Consumers

This regulatory action deals with the "Notice to Consumers".

Title 16
California Code of Regulations
AMEND: 1707.2
Filed 10/31/2007
Effective 11/30/2007
Agency Contact: Anne Sodergren (916) 445-5014

File# 2007-0925-02
DEPARTMENT OF CORPORATIONS
CFLL: Fingerprint and Criminal History Record Checks, Application Form Revisions

This action makes various amendments to the application forms and instructions used for licensure as a finance lender or broker under the California Finance Lenders Law ("CFLL").

Title 10
California Code of Regulations
AMEND: 1409, 1422, 1423
Filed 11/07/2007
Effective 12/07/2007
Agency Contact: Karen Fong (916) 322-3553

File# 2007-1105-01
DEPARTMENT OF FOOD AND AGRICULTURE
Mediterranean Fruit Fly Interior Quarantine

In this emergency regulatory action, the Department of Food and Agriculture amends its regulation pertaining to the "Mediterranean Fruit Fly Interior Quarantine" to revise the quarantine area in the Rolling Hills area of Los Angeles County.

Title 3
California Code of Regulations
AMEND: 3406(b)
Filed 11/06/2007
Effective 11/06/2007
Agency Contact: Stephen Brown (916) 654-1017

File# 2007-0919-02
DEPARTMENT OF FOOD AND AGRICULTURE
Standardization — Juice Grape Containers

This action amends the existing list of approved table and juice grape containers to allow the use of an alternative container designated "38 RPC".

Title 3
California Code of Regulations
AMEND: 1380.19, 1437.12
Filed 11/01/2007
Effective 12/01/2007
Agency Contact: Steve Patton (916) 445-2180

File# 2007-0925-05
DEPARTMENT OF HEALTH CARE SERVICES
Dental Services

This regulatory action repeals Chapter 8 of the Manual of Criteria for Medi-Cal Authorization (MOC) regarding dental services along with two sections which relate to that chapter. In its place, this action adopts new Chapter 8.1 and relocates appropriate provisions of the repealed sections within that chapter in order to locate all Medi-Cal dental criteria in one source. These changes convert from the use of 3-digit local procedure codes unique to California to the use of the national standard Current Dental Terminology (CDT) procedure codes as required by the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Title 22
California Code of Regulations
AMEND: 51003(e) REPEAL: 51307, 51506.2
Filed 11/06/2007
Effective 12/06/2007
Agency Contact: Ben Carranco (916) 440-7766

File# 2007-0920-01
DEPARTMENT OF INSURANCE
Workers' Compensation Pure Premium Rates

This action updates the California Workers' Compensation Uniform Statistical Reporting Plan — 1995 and the California Workers' Compensation Experience Rating Plan — 1995.

Title 10
California Code of Regulations
AMEND: 2318.6, 2353.1
Filed 10/31/2007
Effective 07/01/2007
Agency Contact:
Christopher A. Citko (415) 538-4010

File# 2007-0924-01
DEPARTMENT OF INSURANCE
California Low Cost Automobile Insurance Program

These changes without regulatory effect update the information in Exhibit A — Residence Eligibility Guidelines (listing cities alphabetically with zip codes by county) and Exhibit B — Residence Eligibility Guidelines (listing cities numerically by zip code in each county) in the "California Automobile Insurance Low Cost Program Plan of Operations" (incorporated by reference in the section) to reflect changes in zip codes.

Title 10
California Code of Regulations
AMEND: 2498.6
Filed 11/02/2007
Effective 11/02/2007
Agency Contact:
Mary Ann Shulman (415) 538-4133

File# 2007-0925-03
DEPARTMENT OF TOXIC SUBSTANCES
CONTROL
Environmental Fee

This regulatory action deals with the environmental fee required pursuant to Health & Safety Code section 25205.6.

Title 22
California Code of Regulations
ADOPT: 66269.1
Filed 11/07/2007
Effective 12/07/2007
Agency Contact: Laura Hayashi (916) 322-6409

File# 2007-1012-04
FAIR POLITICAL PRACTICES COMMISSION
Definitions of "Section" and "Regulation"

The Fair Political Practices Commission is adopting section 18200, title 2, California Code of Regulations. The adoption is entitled "Section and Regulation."

Title 2
California Code of Regulations
ADOPT: 18200
Filed 10/31/2007
Effective 11/30/2007
Agency Contact:
Virginia Latteri-Lopez (916) 322-5660

File# 2007-0925-06
FISH AND GAME COMMISSION
Hunting and Other Public Use Restrictions in State and Federal Areas

This regulatory action amends various types of public uses on wildlife areas administered by the Department of Fish and Game. It also amends the waterfowl hunt program on a number of federal wildlife refuges that the Department also administers. These amendments impose necessary use restrictions and increase public use opportunities.

Title 14
California Code of Regulations
AMEND: 550, 551, 552
Filed 11/07/2007
Effective 12/07/2007
Agency Contact: Sheri Tiemann (916) 654-9872

File# 2007-0924-04
OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD
Pneumatically-Driven Nailers and Staplers

This regulatory action deals with Pneumatically-Driven Nailers and Staplers.

Title 8
California Code of Regulations
AMEND: 1704
Filed 10/31/2007
Effective 11/30/2007
Agency Contact: Michael Manieri (916) 274-5721

File# 2007-0924-07

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

Dust Collection Systems for Woodworking Machines

In this regulatory action, the Occupational Safety and Health Standards Board amends a General Industry Safety Order regulation pertaining to Dust Collection Systems for Woodworking Machines, including new provisions for “enclosureless bag-type dust collectors.”

Title 8

California Code of Regulations

AMEND: 4324

Filed 11/05/2007

Effective 12/05/2007

Agency Contact: Michael Manieri (916) 274-5721

File# 2007-1029-01

**OFFICE OF SPILL PREVENTION AND RESPONSE
Definitions — Contracting for nontank vessels**

This emergency action amends section 825.05, subchapter 4, title 14, CCR, to allow a nontank vessel to enter into an agreement with an oil spill response organization for coverage in a small harbor assured through advance notification of the ship’s intention to enter the harbor.

Title 14

California Code of Regulations

AMEND: 825.05

Filed 11/05/2007

Effective 11/05/2007

Agency Contact:

Joy D. Lavin-Jones (916) 327-0910

File# 2007-0919-01

**OFFICE OF THE STATE FIRE MARSHAL
Pipeline Safety Fees**

In this regulatory action, the State Fire Marshal amends its regulation setting forth pipeline safety fees to revise its annual fiscal year fees applicable to intra-state pipelines and interstate pipelines, pursuant to the fee authority contained in Government Code sections 51019 and 51019.05.

Title 19

California Code of Regulations

AMEND: 2040

Filed 10/31/2007

Effective 07/01/2008

Agency Contact: Diane Arend (916) 324-9592

File# 2007-1023-01

**PROFESSIONAL FIDUCIARIES BUREAU
Code of Ethics and Education Criteria**

Senate Bill 1550 (Figueroa, Chapter 491, Stats. 2006) created the new Professional Fiduciaries Bureau (Bureau) within the Department of Consumer Affairs (Department). The Bureau is required to license and regulate specified fiduciaries under the Professional Fiduciaries Act (Act) that represent a particularly vulnerable consumer population. This emergency regulatory action adopts prelicensing education requirements, continuing education requirements, and a code of ethics for these professional fiduciaries.

Title 16

California Code of Regulations

ADOPT: 4440, 4442, 4444, 4446, 4448, 4450, 4452, 4470, 4472, 4474, 4476, 4478, 4480, 4482, 4484

Filed 11/02/2007

Effective 11/02/2007

Agency Contact: Mellonie Yang (916) 574-7340

File# 2007-0925-01

**STATE WATER RESOURCES CONTROL BOARD
San Francisco Bay Mercury TMDL**

On August 9, 2006, the San Francisco Bay Regional Water Quality Control Board adopted Resolution No. R2-2006-0052 amending the Water Quality Control Plan for the San Francisco Bay Region (Basin Plan). This Basin Plan amendment establishes fish tissue objectives for mercury for the protection of human health and the protection of wildlife, removes the marine waters four-day average water quality objective for San Francisco Bay waters, and establishes the allowable annual mercury load Total Maximum Daily Load (TMDL) to San Francisco Bay, and includes actions and monitoring provisions necessary to implement the TMDL. On July 17, 2007, the State Water Resources Control Board approved this amendment under Resolution No. 2007-0045.

Title 23

California Code of Regulations

ADOPT: 3915

Filed 11/07/2007

Agency Contact: Joanne Cox (916) 341-5552

File# 2007-1024-02

**SUPERINTENDENT OF PUBLIC INSTRUCTION
Child Care and Development Programs**

This action allows the Child Development Division to grant exceptions to contractors (pre-schools) to allow them to exclude “housing allowances” from adjusted monthly income for active military personnel living on or near a base for the sole purpose of allowing them to be eligible for the State Pre-school program. This exclusion would only apply after the placement of all children from the statutorily mandated priorities listed and “other income eligible” families. This action

is a result of a previous regulatory change whereby the definition of "adjusted monthly income" was amended to include housing allowances. This inclusion of housing allowance as income has had the unintended consequence of denying pre-school to children who were previously eligible.

Title 5

California Code of Regulations

ADOPT: 18134

Filed 11/05/2007

Effective 11/05/2007

Agency Contact: Connie Diaz (916) 319-0584

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN JUNE 6, 2007 TO
NOVEMBER 7, 2007**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

07/09/07 AMEND: 270

06/28/07 AMEND: 2616

Title 2

10/31/07 ADOPT: 18200

10/30/07 AMEND: 1138.10, 1138.30, 1138.72, 1138.90

10/17/07 ADOPT: 2970

10/15/07 ADOPT: 2291, 2292, 2293, 2294, 2295, 2296

10/09/07 AMEND: 1896.98, 1896.99.100, 1896.99.120

10/03/07 ADOPT: 1859.167.2, 1859.167.3
AMEND: 1859.2, 1859.163.3, 1859.167
REPEAL: 1859.167.1

10/01/07 ADOPT: 1859.71.6, 1859.77.4 AMEND: 1859.2

09/24/07 ADOPT: 18420.5

09/24/07 ADOPT: 18361 AMEND: 18360, 18361.7

09/20/07 ADOPT: 18466

09/20/07 REPEAL: 18530.9

09/11/07 ADOPT: 18440

09/10/07 AMEND: 1183.13

09/04/07 ADOPT: 54700

08/31/07 ADOPT: 1859.180, 1859.181, 1859.182, 1859.183, 1859.184, Form SAB 50-11
AMEND: 1859.2, 1859.51, 1859.61, 1859.75.1, 1859.81, 1859.81.1, 1859.81.2, 1859.103, 1859.104, 1859.202, 1866, Form SAB 50-04, Form SAB 50-06

08/31/07 AMEND: 18109, 18204.5, 18208.5, 18215.2, 18228, 18236, 18241, 18306, 18315, 18323, 18325, 18350, 18404.2, 18410, 18416, 18429, 18432, 18438, 18457, 18500, 18502, 18502.1, 18502.2, 18519.4, 18522, 18526.1, 18530.1, 18531.1, 18531.3, 18531.4, 18532, 18536.1, 18536.2, 18538, 18538.2, 18541, 18564, 18573, 18580, 18585, 18586, 18587, 18588, 18590, 18616.5, 18618, 18619, 18620, 18621, 18622, 18626, 18650, 18700.1, 18702.6, 18704.3, 18707.3, 18720, 18725, 18726, 18726.1, 18726.2, 18726.3, 18726.4, 18726.5, 18726.6, 18726.7, 18726.8, 18727, 18760, 18902, 18930.1, 18931, 18935, 18940.1, 18950.2, 18954

08/03/07 AMEND: 58800

08/02/07 ADOPT: 1700

07/18/07 AMEND: 1859.2, 1859.51, 1859.61, 1859.81, 1859.202, 1866

07/18/07 AMEND: 18361.2, 18361.4

07/18/07 ADOPT: 7288.0, AMEND: 7288.0, 7288.1, 7288.2, 7288.3

07/17/07 AMEND: 1859.2

07/02/07 ADOPT: 18531.62 AMEND: 18544, 18545

07/02/07 ADOPT: 1859.302, 1859.324.1, 1859.330 AMEND: 1859.302, 1859.318, 1859.320, 1859.321, 1859.322, 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.326, 1859.328, 1859.329

06/20/07 ADOPT: 1859.106.1 AMEND: 1859.106

06/15/07 AMEND: div. 8, ch. 111, sec. 59560

06/13/07 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.71, 20108.75, 20108.80
REPEAL: 20108.37

Title 3

11/06/07 AMEND: 3406(b)

11/01/07	AMEND: 1380.19, 1437.12	17640, 17641, 17642, 17646, 17648
10/29/07	AMEND: 3433(b)	REPEAL: 17633, 17634, 17645, 17647, 17649
10/29/07	AMEND: 3406(b)	
10/25/07	AMEND: 3591.20(a & b)	09/10/07 ADOPT: 19828.2, 19829.5, 19830.1, 19837.1, 19838, 19846 AMEND: 19816, 19816.1, 19828.1, 19830, 19837, 19854
10/15/07	AMEND: 3406(b)	
10/03/07	AMEND: 3433(b)	08/27/07 ADOPT: 9517.2
09/28/07	AMEND: 3434(b)	08/23/07 AMEND: 42000, 42002, 42003, 42005, 42006, 42007, 42008, 42009, 42010, 42011, 42012, 42013, 42018, 42019
09/25/07	AMEND: 3591.2(a)	
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06/28/07	AMEND: 2498.5		
06/28/07	AMEND: 2498.4.9		
06/28/07	AMEND: 2498.6		
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11/07/07	ADOPT: 66269.1		
11/06/07	AMEND: 51003(e) REPEAL: 51307, 51506.2		
10/23/07	AMEND: 4400, 4409.1, 4415 REPEAL: 4440.1		
10/18/07	AMEND: 67391.1		
10/16/07	AMEND: 10100 REPEAL: 10101		
10/03/07	AMEND: 67386.5, 67386.6, 67386.11		
09/18/07	ADOPT: 64432.3, 64432.8 AMEND: 64413.1, 64431, 64432, 64447.2, 64463.1, 64465, 64481 REPEAL: 64450		

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06/27/07	ADOPT: 3002	20932, 20933, 20934, 20937 REPEAL:
06/19/07	ADOPT: 3949.3	20919.5
Title 25		Title MPP
07/06/07	AMEND: 5060, 5061, 5062, 5064, 5520, 5521, 5530, 5540.1, 5575	07/30/07 AMEND: 47–201, 47–401
Title 27		06/26/07 AMEND: 40–118, 43–103, 44–209, 80–301, 82–808
08/21/07	ADOPT: 20939 AMEND: 20918, 20919, 20920, 29021, 20923, 20925, 20931,	06/25/07 AMEND: 47–110 and 47–301